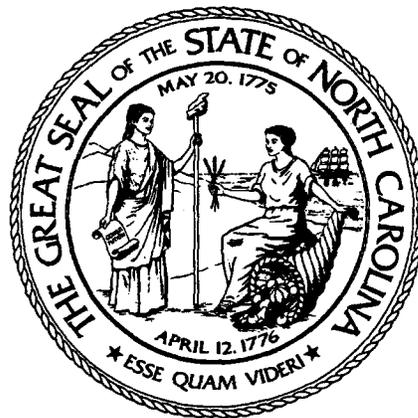


LEGISLATIVE RESEARCH COMMISSION

BUSINESS DEVELOPMENT COMMITTEE



**REPORT TO THE
1998 SESSION OF THE
1997 GENERAL ASSEMBLY
OF NORTH CAROLINA**

A LIMITED NUMBER OF COPIES OF THIS REPORT IS AVAILABLE FOR
DISTRIBUTION THROUGH THE LEGISLATIVE LIBRARY.

ROOMS 2126, 2226
STATE LEGISLATIVE BUILDING
RALEIGH, NORTH CAROLINA 27611
TELEPHONE: (919) 733-7778

OR

ROOM 500
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTH CAROLINA 27603-5925
TELEPHONE: (919) 733-9390

TABLE OF CONTENTS

LETTER OF TRANSMITTAL	i
LEGISLATIVE RESEARCH COMMISSION MEMBERSHIP	ii
EXECUTIVE SUMMARY	iii
PREFACE.....	1
COMMITTEE PROCEEDINGS	3
COMMITTEE RECOMMENDATIONS AND LEGISLATIVE PROPOSALS.....	5
1. AN ACT TO REQUIRE THE BUSINESS LICENSE INFORMATION OFFICE OF THE SECRETARY OF STATE'S OFFICE TO PROVIDE INFORMATION AND ASSISTANCE TO SMALL BUSINESSES.....	6
2. AN ACT TO ELIMINATE THE NORTH CAROLINA INHERITANCE TAX AND TO RETAIN A STATE ESTATE TAX EQUAL TO THE FEDERAL STATE DEATH TAX CREDIT	15
3. AN ACT TO REDUCE THE UNEMPLOYMENT INSURANCE TAX RATE FOR 1999 FOR ALL EMPLOYERS WITH A POSITIVE EXPERIENCE RATING	23
4. AN ACT TO PROVIDE THAT THE STATE SHALL NOT TAX INTERNET ACCESS CHARGES, SHALL ENFORCE SALES TAXES ON INTERNET COMMERCE ONLY TO THE SAME EXTENT IT ENFORCES SALES TAX ON MAIL ORDER COMMERCE, AND SHALL IMPOSE NO NEW TAXES ON THE INTERNET OR INTERNET COMMERCE	27
5. AN ACT TO IMPROVE THE STATE PROCUREMENT PROCESS	29
6. AN ACT TO INCREASE THE NUMBER OF CONTRACTORS ON THE BUILDING CODE COUNCIL AND TO REQUIRE COUNCIL TO CONSIDER THE IMPACT OF CODE CHANGES ON THE AFFORDABILITY OF RESIDENTIAL HOUSING	32

7.	AN ACT TO REQUIRE STATE AGENCIES TO PUBLISH THE TEXT OF A PROPOSED RULE ON THE INTERNET.....	36
8.	AN ACT TO ALLOW A CREDIT AGAINST THE FRANCHISE TAX FOR PROPERTY TAXES PAID ON CONSTRUCTION IN PROGRESS.....	38
9.	AN ACT TO REDUCE THE AMOUNT OF NET CAPITAL GAINS SUBJECT TO STATE INCOME TAX FOR ASSETS ACQUIRED ON OR AFTER JANUARY 1, 1999.....	46
10.	AN ACT TO EXPAND THE WILLIAM S. LEE INVESTMENT TAX CREDIT TO INCLUDE OPERATING LEASES	49
11.	AN ACT TO PROVIDE AN OPTIONAL SYSTEM FOR FUNDING WORKERS' COMPENSATION	51

APPENDICES

A.	RELEVANT PORTIONS OF THE 1997 STUDIES BILL, CHAPTER 483 OF THE 1997 SESSION LAWS (FIRST SESSION, 1997) AND HOUSE BILL 1177 AND SENATE BILL 956 OF THE 1997-1998 SESSION	A-1
B.	MEMBERSHIP OF THE LRC COMMITTEE ON BUSINESS DEVELOPMENT	B-1
C.	LIST OF SPEAKERS	C-1



STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
STATE LEGISLATIVE BUILDING
RALEIGH 27601-1096

May 11, 1998

TO THE MEMBERS OF THE 1997 GENERAL ASSEMBLY (REGULAR SESSION 1998):

The Legislative Research Commission herewith submits to you for your consideration its interim report on business development. The report was prepared by the Legislative Research Commission's Committee on Business Development pursuant to G.S. 120-30.17(1).

Respectfully submitted,



Harold J. Brubaker
Speaker of the House



Marc Basnight
President Pro Tempore

Cochair
Legislative Research Commission





1997-1999

LEGISLATIVE RESEARCH COMMISSION

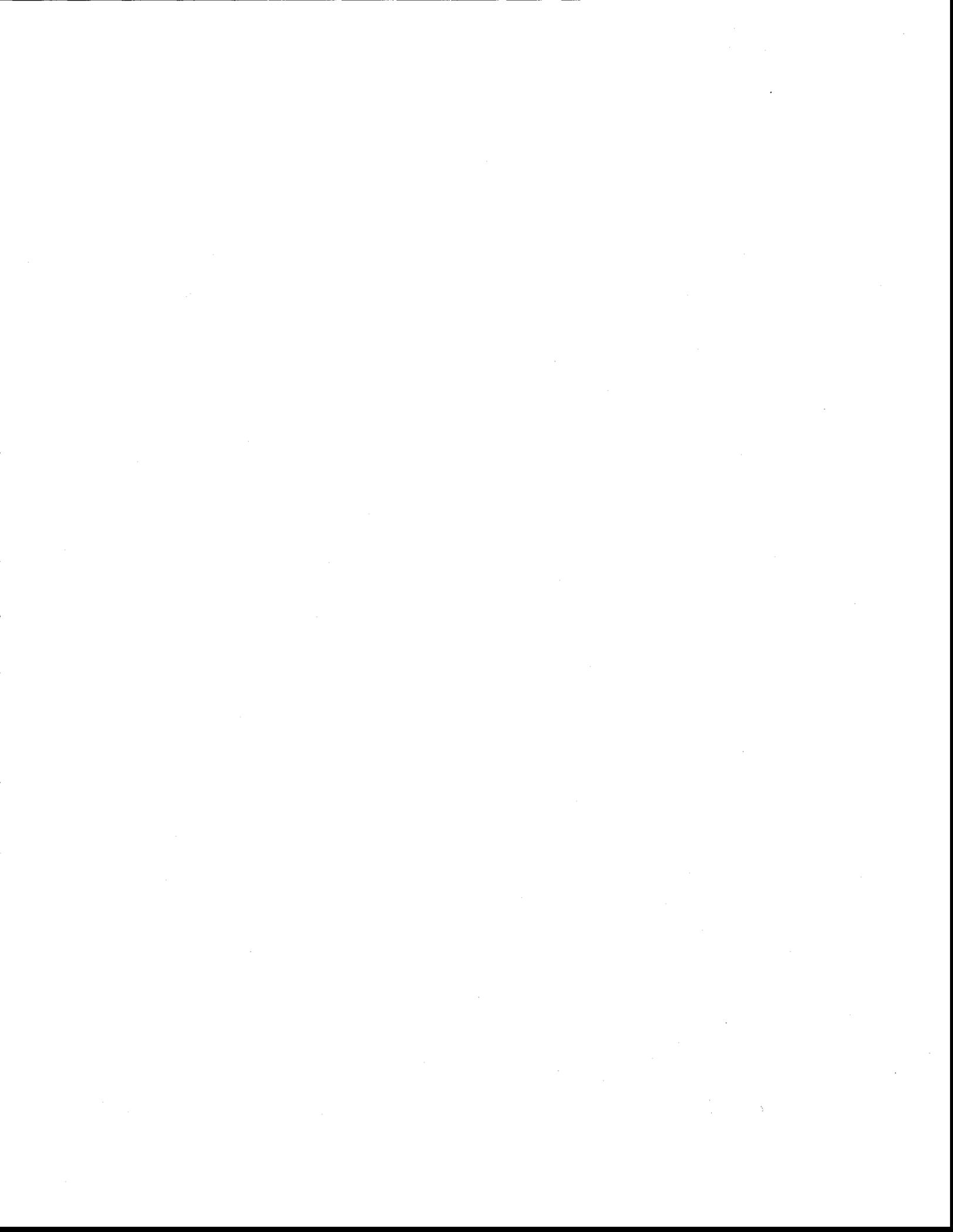
MEMBERSHIP

President Pro Tempore of the Senate
Marc Basnight, Cochair

Sen. Austin M. Allran
Sen. Frank W. Ballance, Jr.
Sen. Jeanne H. Lucas
Sen. R.L. Martin
Sen. Ed N. Warren

Speaker of the House of Representatives
Harold J. Brubaker, Cochair

Rep. Michael P. Decker, Sr.
Rep. Jerry C. Dockham
Rep. Beverly Earle
Rep. W. Eugene McCombs
Rep. Gregory J. Thompson



EXECUTIVE SUMMARY OF THE BUSINESS DEVELOPMENT REPORT

The Committee on Business Development held four meetings prior to the convening of the 1998 Regular Session of the 1997 General Assembly. The emphasis of its first two meetings was the concerns of small business in North Carolina, especially in the areas of regulation and taxation. The Committee devoted its third meeting to the discussion of the need for venture capital in North Carolina.

The interim work of the Committee seeks to begin the process of proposing and implementing those changes that will make a positive difference for small businesses in North Carolina. The Legislative Recommendations and Proposals of the Committee are as follows:

1. **AN ACT TO REQUIRE THE BUSINESS LICENSE INFORMATION OFFICE OF THE SECRETARY OF STATE'S OFFICE TO PROVIDE INFORMATION AND ASSISTANCE TO SMALL BUSINESSES** – Creation of a Small Business Ombudsman in the Business License Information Office to assist small businesses in answering questions ranging from taxation to regulation, form workers' compensation to forms.
2. **AN ACT TO ELIMINATE THE NORTH CAROLINA INHERITANCE TAX AND TO RETAIN A STATE ESTATE TAX EQUAL TO THE FEDERAL STATE DEATH TAX CREDIT** – Repeals the State inheritance tax, effective October 1, 1998, and retains a State estate tax that is equivalent to the federal state death tax credit allowed on a federal estate tax return. The net fiscal impact to the General Fund is \$75 million.
3. **AN ACT TO REDUCE THE UNEMPLOYMENT INSURANCE TAX RATE FOR 1999 FOR ALL EMPLOYERS WITH A POSITIVE EXPERIENCE RATING** – A one-time tax rate cut of \$100 million for the 1999 tax year. The rate cut would use up all of the surplus in the Unemployment Insurance Fund that was unintended when the Governor recommended a one-year tax moratorium in January 1996.
4. **AN ACT TO PROVIDE THAT THE STATE SHALL NOT TAX INTERNET ACCESS CHARGES, SHALL ENFORCE SALES TAXES ON INTERNET COMMERCE ONLY TO THE SAME EXTENT IT ENFORCES SALES TAX ON MAIL ORDER COMMERCE, AND SHALL IMPOSE NO NEW TAXES ON THE INTERNET OR INTERNET COMMERCE** – Provides that the State will not tax internet access charges, that it will enforce sales taxes on internet commerce only to the same extent it enforces sales tax on mail order commerce, and that it will not impose new taxes on the internet or internet commerce. The current cost to the State budget of the proposal is insignificant.
5. **AN ACT TO IMPROVE THE STATE PROCUREMENT PROCESS** – It provides greater flexibility to agencies to purchase without using the State purchase and contract division, it applauds the Department of Administration's

efforts to solicit bids through electronic means, and it asks the General Assembly to review the exceptions to the Umstead Act.

6. **AN ACT TO INCREASE THE NUMBER OF CONTRACTORS ON THE BUILDING CODE COUNCIL AND TO REQUIRE COUNCIL TO CONSIDER THE IMPACT OF CODE CHANGES ON THE AFFORDABILITY OF RESIDENTIAL HOUSING** – It increases the membership of the Building Code Council and it requires a fiscal note for any proposed Code change that would increase the cost of residential housing by \$80 or more per housing unit.
7. **AN ACT TO REQUIRE STATE AGENCIES TO PUBLISH THE TEXT OF A PROPOSED RULE ON THE INTERNET** – Requires State agencies to post proposed rules on the Internet as well as in the North Carolina Register.
8. **AN ACT TO ALLOW A CREDIT AGAINST THE FRANCHISE TAX FOR PROPERTY TAXES PAID ON CONSTRUCTION IN PROGRESS** – Allows a franchise tax credit equal to the amount of property tax paid on construction in progress, effective January 1, 1999. The most recent cost estimate pegged the annual budgetary impact on the General Fund, beginning in fiscal year 2000-01, at \$38 million.
9. **AN ACT TO REDUCE THE AMOUNT OF NET CAPITAL GAINS SUBJECT TO STATE INCOME TAX FOR ASSETS ACQUIRED ON OR AFTER JANUARY 1, 1999** – Allows an income tax exclusion for capital gains with the exclusion amount based on the holding period of the asset. The proposal would apply to assets acquired on or after January 1, 1999. There are not estimates at this time of the impact of the proposal. However, the earliest that the change would affect the General Fund would be fiscal year 2000-01.
10. **AN ACT TO EXPAND THE WILLIAM S. LEE INVESTMENT TAX CREDIT TO INCLUDE OPERATING LEASES** – Expands the investment tax credit under the Bill Lee Act to include operating leases. Due to the technical complexity of the issue, the Committee did not recommend specific statutory language. The wording can be worked out during the legislative process. The expansion of the credit would cost the State General Fund a maximum of \$3.3 million per year.
11. **AN ACT TO PROVIDE AN OPTIONAL METHOD FOR FUNDING WORKERS' COMPENSATION** – Provides for an optional system for funding the workers' compensation system based on a medical savings account approach. Due to the technical complexity of the issue, the Committee did not recommend specific statutory language. The wording can be worked out during the legislative process.

The spokespersons for the venture capital industry made an excellent presentation on the need for more venture capital in the State. The Committee chairs will provide detailed minutes of the presentations to the Senate Finance Committee for its use during the 1998 Regular Session of the 1997 General Assembly.

PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is the general purpose study group in the Legislative Branch of State Government. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

The Legislative Research Commission, prompted by actions during the 1997 Session, has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The study of business development was authorized by Section 2.1 of Chapter 483 of the 1997 Session Laws. Part II of Chapter 483 allows for studies authorized by that Part for the Legislative Research Commission to consider House Bill 1177 and Senate Bill 956 in determining the nature, scope and aspects of the study. Section 2 of House Bill 1177 reads in part:

- "(1) Evaluate the services provided to small business by the various State agencies and determine ways to assure that the needs of small businesses are met in an efficient and effective manner by, in part, coordinating the efforts of the State agencies that serve small businesses.
- (2) Evaluate the impact of regulations imposed on small businesses by the State and determine ways to eliminate unnecessary regulations and to minimize the negative impact of other necessary regulations on the businesses.
- (3) Make recommendations to the General Assembly regarding legislative proposals that will facilitate the development of small businesses in the State and assure that the needs of existing businesses are met.
- (4) Conduct any other studies or evaluations the commission considers necessary to effectuate its purposes."

Senate Bill 956 proposes to encourage venture capital investment by allowing an insurance premiums tax credit for these investments. The relevant portions of S.L. 1997-483, House Bill 1177, and Senate Bill 956 are included in Appendix A. The Legislative Research Commission authorized this study under authority of G.S. 120-30.17(1) and grouped this study in its Business Development, Commerce, and Transportation area under the direction of Rep. Gene McCombs. The Committee was chaired by Senator David Hoyle and Representative Fern Shubert. The full membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

COMMITTEE PROCEEDINGS

The Legislative Research Commission's Committee on Business Development met four times before the 1998 Regular Session of the 1997 General Assembly. The emphasis of its first two meetings was the concerns of small business in North Carolina, especially in the areas of regulation and taxation. To determine the issues that needed to be addressed the Committee invited a wide variety of small business representatives to discuss their objectives and the problems they encounter in trying to achieve those goals. Each speaker was asked to address how current state and local government regulations helped or hindered the ability of small business units to function. The Committee devoted its third meeting to the discussion of the need for venture capital in North Carolina. A list of the speakers that addressed the Committee is contained in Appendix C.

The Committee learned that under the traditional definition of small business, 98% of the establishments in the U. S. with employees would be considered small business. Small business accounts for 38% of the Gross Domestic Product and is responsible for one-half of private sector output. Small businesses employ almost 60% of the workforce.

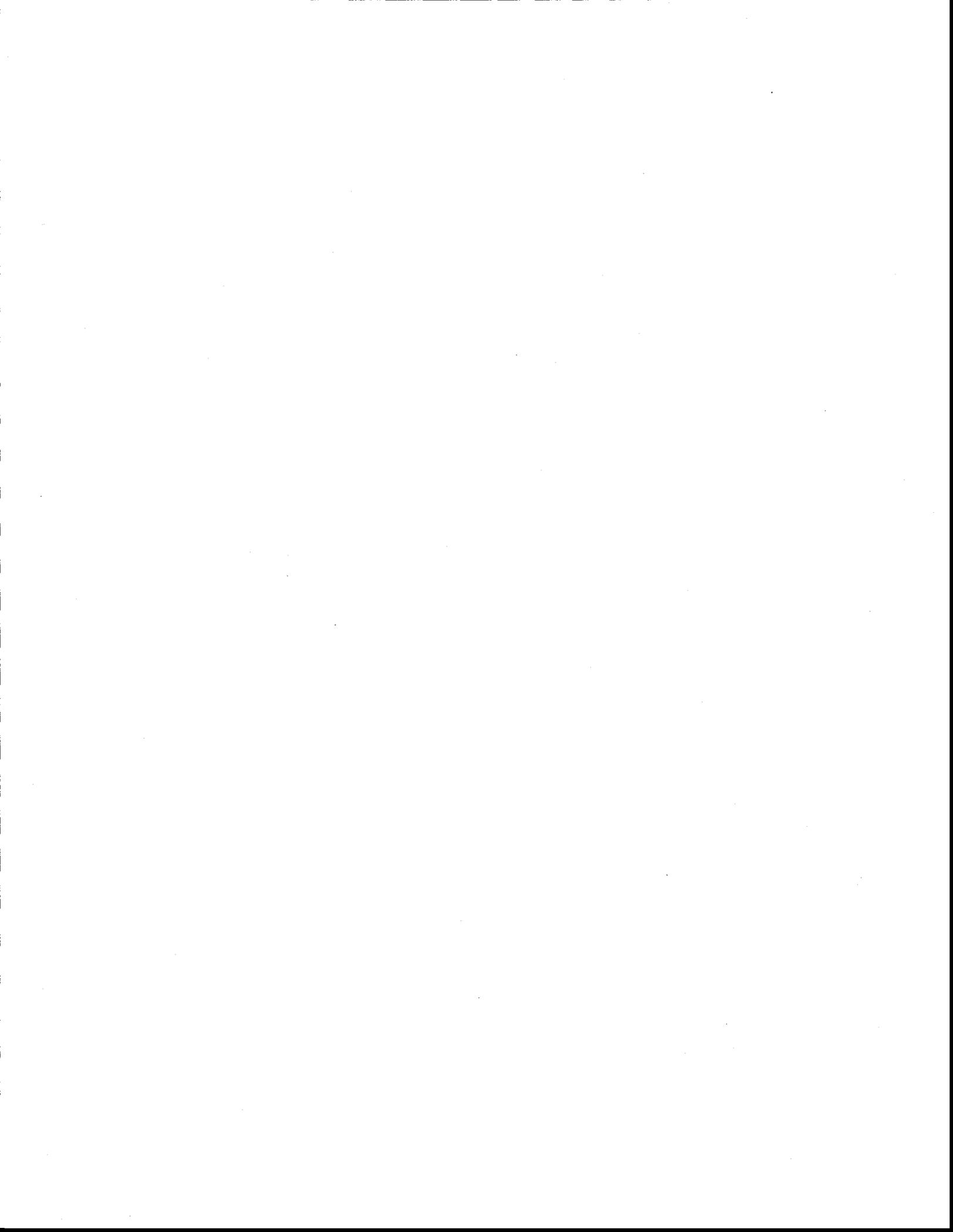
There was a record number of new business formations throughout the country in 1996 and interest in owning or starting a new business has never been greater. In North Carolina, establishments with less than 500 employees created all of the net new jobs for the 1992-96 period, while large companies suffered a decline of 74,481 jobs. According to the U.S. Department of Commerce estimates, small-firm dominated sectors will contribute 60% of the new jobs during the 1994-2005 period. About 88% of these new jobs will be in retail trade or services.

The speakers that addressed the Committee were appreciative of the Committee's efforts. However, many felt that government is good at studying issues, but poor at implementing the actions needed to achieve the desired results. The Committee was encouraged to read the recommendations of the 1997 NC Governor's Conference on Small Business. These recommendations were developed by small business owners from across the State and a "Summary of the Top Twenty Recommendations" was compiled by the North Carolina Governor's Conference on Small Business. The recommendations address nine issues: capital formation, environmental policy, health and welfare, human capital, managing the State enterprise, procurement, regulation and paperwork, taxation, and technology and information. The interim work of the Committee seeks to begin the process of proposing and implementing changes that will make a positive difference for small businesses in North Carolina.

At the Committee's third meeting, the spokespersons for the venture capital industry made an excellent presentation on the need for more venture capital in the State. The Committee chairs will provide detailed minutes of the presentations to the Senate Finance Committee for its use during the 1998 Regular Session of the 1997 General Assembly. The bills pertaining to venture capital before the 1997 General Assembly are in the Senate Finance Committee. The information gathered by this Committee and provided to the Senate Finance Committee will aid the Finance Committee in its review and deliberations of the various proposals to stimulate venture capital funding in the State.

FINDINGS AND RECOMMENDATIONS

The LRC Committee on Business Development recommends the following eleven bills to the 1998 Regular Session of the 1997 General Assembly. Each proposal is followed by an explanation that includes the fiscal impact, if any, of the proposal.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S/H

D

LEGISLATIVE PROPOSAL 1

97-LTZ-183(4.14)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Small Business Information Assistance. (Public)

Sponsors: Representatives Shubert and Sexton.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE BUSINESS LICENSE INFORMATION OFFICE OF THE
3 SECRETARY OF STATE'S OFFICE TO PROVIDE INFORMATION AND
4 ASSISTANCE TO SMALL BUSINESSES, AS RECOMMENDED BY THE BUSINESS
5 DEVELOPMENT STUDY COMMITTEE OF THE LEGISLATIVE RESEARCH
6 COMMISSION.
7 The General Assembly of North Carolina enacts:
8 Section 1. G.S. 147-54.11 reads as rewritten:
9 "§ 147-54.11. Purpose.
10 It is the purpose of this Article to provide a convenient,
11 accessible, and timely one-stop system for the business community
12 to acquire and maintain the necessary information and State
13 licenses to conduct business. Use of this one-stop system by an
14 applicant is optional. An applicant may deal directly with the
15 appropriate State licensing agency if ~~he~~ so the applicant
16 prefers. To accomplish this goal, a business license information
17 office is established to provide information to the business
18 community on all State ~~licensing and regulatory requirements~~ laws
19 and regulations and, to the extent feasible, to provide local and
20 federal information on the same regulated activities. In
21 addition to providing information on State ~~licensing~~
22 requirements, the business license information office shall
23 develop an operating plan for an automated master application

1 system, shall determine the software and hardware needs of the
2 system, shall determine the staffing levels required for the
3 system, and shall determine the space requirements for the office
4 and automated system.

5 It is the intent of the General Assembly that the authority for
6 determining whether a requested license shall be issued shall
7 remain with the agency legally authorized to issue the license."

8 Section 2. G.S. 147-54.13 reads as rewritten:

9 "§ 147-54.13. Business License Information Office established;
10 appointment of director.

11 (a) There is established within the Department of the
12 Secretary of State the Business License Information Office. The
13 Office shall be under the direction and supervision of a full-
14 time salaried State employee who shall be designated as the
15 Director. The Director shall be appointed by the Secretary of
16 State and shall receive a salary commensurate with State
17 government pay schedules for the duties of this office, or such
18 salary to be set by the State Personnel Board pursuant to G.S.
19 126-4. Necessary travel allowance or reimbursement for expenses
20 shall be authorized for the Director in accordance with G.S. 138-
21 6. Sufficient staff shall be provided under the direction of the
22 Secretary.

23 (b) The Office shall make recommendations to agencies and the
24 General Assembly ~~for eliminating, consolidating, simplifying, or~~
25 ~~expediting licenses, or otherwise improving licensing procedures~~
26 ~~affecting business undertakings.~~ regarding proposed policies,
27 rules, or laws to improve the dissemination of information to
28 small businesses regarding statutory and regulatory requirements
29 and to improve licensing procedures affecting business
30 undertakings, including alternatives such as eliminating,
31 consolidating, simplifying, or expediting particular licenses.

32 (c) The Office shall promulgate and adopt rules and forms
33 necessary to carry out the purposes of this Article."

34 Section 3. Article 4B of Chapter 147 of the General
35 Statutes is amended by adding a new section to read:

36 "§ 147-54.13.1. Reporting requirements of the Secretary of
37 State.

38 The Secretary may report to the Joint Legislative Commission on
39 Governmental Operations on any recommended legislative or
40 administrative revision the Secretary determines is necessary to
41 make State government communications and relations with the
42 public more effective and efficient."

43 Section 4. G.S. 147-54.14 reads as rewritten:

44 "§ 147-54.14. Clearinghouse functions.

1 The Office shall be a clearinghouse for State business license
2 information and shall perform the following duties:

- 3 (1) Establish a license information service detailing
4 requirements for establishing and engaging in
5 business in the State;
- 6 (2) Provide the most recent forms and information
7 sheets for all State business licenses; and
- 8 (3) Prepare, publish, and distribute a complete
9 directory of all State licenses required to do
10 business in North Carolina, ~~Carolina~~;
- 11 (4) Provide the public with an information resource
12 center that disseminates information regarding
13 State statutory and regulatory requirements to
14 conduct business, including but not limited to
15 authoritative sources and procedures; and
- 16 (5) Establish a program in which the Office works with
17 the small business community to identify problems
18 in State government related to unnecessary delays,
19 inconsistencies between regulatory agencies, and
20 the inefficient and ineffective uses of State
21 resources."

22 Section 5. G.S. 147-54.15 reads as rewritten:
23 "§ 147-54.15. License coordination and assistance to applicants.
24 Upon request, the Office shall assist a person as provided
25 below:

- 26 (1) Identify the type and source of licenses that may
27 be required and the potential difficulties in
28 obtaining the licenses based on an informal review
29 of a potential applicant's business at an early
30 stage in its planning. Information provided by the
31 Office is for guidance purposes only and may not be
32 asserted by an applicant as a waiver or release
33 from any license requirement. However, an
34 applicant who uses the services of the Office as
35 provided in this subdivision, and who receives a
36 written statement identifying required State
37 business licenses relating to a specific business
38 activity, may not be assessed a penalty for failure
39 to obtain any State business license which was not
40 identified, provided that the applicant submits an
41 application for each such license within sixty (60)
42 days after written notification by the Office or
43 the agency responsible for issuing the license;

- 1 (2) Arrange an informal conference between the person
2 and the appropriate agency to clarify licensing
3 requirements or standards, if necessary;
- 4 (3) Assist in preparing the appropriate application and
5 supplemental forms;
- 6 (4) Monitor the license review process to determine the
7 status of a particular license. If there is a
8 delay in the review process, the Office may demand
9 to know the reasons for the delay, the action
10 required to end the delay, and shall provide this
11 information to the applicant. The Office may
12 assist the applicant in resolving a dispute with an
13 agency during the application process. If a
14 request for a license is refused, the Office may
15 explain the recourse available to the person under
16 the Administrative Procedure Act. Act; and
- 17 (5) Provide the person with any information the person
18 needs to comply with State laws, rules, and
19 policies in conducting business in the State or
20 refer the person to the particular individual in
21 the appropriate agency to obtain the requested
22 information."

23 Section 6. G.S. 147-54.16 reads as rewritten:

24 "§ 147-54.16. Master application automated system.

25 (a) The Office shall implement and administer an automated
26 master application system. The Office shall determine the
27 licenses appropriate for inclusion in the master application
28 system. The Office may not include environmental licenses in the
29 master application system.

30 The appropriate agency shall continue to determine whether a
31 requested license shall be issued and to issue the license if the
32 application is approved by the agency. An applicant who receives
33 written notification by the Office that a license requested
34 through the Office is being issued by the appropriate agency may
35 proceed with the licensed business activity without having
36 physical possession of the issued license.

37 The Office shall collect from each applicant the total amount
38 of the fees for the licenses applied for through the Office. The
39 Office is the repository for an original signed application form
40 submitted through the Office for a license that is included in
41 the master application system. If, based on the information
42 supplied by the applicant to the Office, the Office fails to make
43 application for a required license, and the applicant did not
44 know such a license was required, the applicant shall not be

1 liable for any civil or criminal penalties or disciplinary action
2 for failure to have the license. If the failure to obtain the
3 license is reported to the applicant by either the Office or the
4 agency issuing the license, the applicant must make application
5 within 30 days or be subject to the penalties or disciplinary
6 action.

7 (b) The Office shall implement and administer an automated
8 system to track the number of contacts or inquiries received each
9 year, the nature of each contact or inquiry, and the final
10 resolution offered in response to each contact or inquiry for the
11 purpose of recommending legislative and administrative revisions
12 pursuant to G.S. 147-54.13."

13 Section 7. G.S. 147-54.17 reads as rewritten:
14 "~~§ 147-54.17. License coordinator~~ Coordinator designated in all
15 State agencies.

16 (a) Each agency shall cooperate fully with the Office in
17 providing information on the ~~licenses forms, licenses,~~ and
18 regulatory requirements of the agency, in coordinating
19 conferences with applicants to clarify license and regulatory
20 requirements, and in developing a plan for an automated master
21 application system.

22 (b) Each agency shall designate a business license
23 coordinator. The coordinator shall have the following
24 responsibilities:

25 (1) To provide to the Office the most recent
26 application and supplemental forms required for
27 each license issued by the ~~agency,~~ agency and for
28 conducting business under the regulatory authority
29 of the agency, the most recent information
30 available on existing and proposed agency rules,
31 the most recent information on changes or proposed
32 changes in license requirements or agency rules and
33 how those changes will affect the business
34 community, and agency publications that would be of
35 aid or interest to the business community;

36 (2) To work with the Office in scheduling conferences
37 for applicants as provided under G.S. 147-54.15;

38 (3) To determine, upon request of an applicant or the
39 Office, the status of a license application or
40 renewal, the reason for any delay in the license
41 review process, and the action needed to end the
42 delay; and to notify the applicant or Office, as
43 appropriate, of those findings;

- 1 (4) To work with the Office or applicant, upon request,
2 to resolve any dispute that may arise between the
3 agency and the applicant during the review process;
- 4 (4a) To determine, upon request of a business or the
5 Office, the status of a request for information or
6 assistance regarding any requirements or actions of
7 the agency, the reason for any delay in the
8 agency's response, and the action needed to end the
9 delay; and to notify the applicant or Office, as
10 appropriate, of those findings;
- 11 (4b) To work with the Office or business, upon request,
12 to resolve any dispute that may arise between the
13 agency and business regarding the compliance with
14 laws, rules or policies of the State or agency; and
- 15 (5) To review agency regulatory and license
16 requirements and to provide a written report to the
17 Office that identifies the regulatory and licensing
18 requirements that affect the business community;
19 indicates which, if any, requirements should be
20 eliminated, modified, or consolidated with other
21 requirements; and explains the need for continuing
22 those requirements not recommended for
23 elimination."

24 Section 8. Article 4B of Chapter 147 of the General
25 Statutes is amended by adding a new section to read:

26 "§ 147-54.20. Confidentiality of requests.

27 At the request of the person or applicant, the identity of the
28 person or other entity requesting assistance or information
29 pursuant to this Article shall remain confidential and shall not
30 be disseminated to any State agency or person outside the Office.
31 The Secretary shall adopt rules to implement this section.

32 Section 9. Effective October 1, 1999, G.S. 147-54.13.1,
33 as enacted by this act, reads as rewritten:

34 "§ 147-54.13.1. Reporting requirements of the Secretary of
35 State.

36 (a) The At any time, the Secretary may report to the Joint
37 Legislative Commission on Governmental Operations on any
38 recommended legislative or administrative revision the Secretary
39 determines is necessary to make State government communications
40 and relations with the public more effective and efficient.

41 (b) The Secretary shall report to the Joint Legislative
42 Commission on Governmental Operations on or before November 1
43 each year on the most common and egregious problems the public
44 has had in communicating with and obtaining information from

1 State agencies in the prior year. The report shall include a
2 summary of any complaints and the number, type or nature, and
3 resolution of inquiries received by the Office. The Secretary
4 shall also report on any legislative or administrative
5 recommendations to address the problems reported that year,
6 including proposed budgetary amendments."

7 Section 10. Sections 1 through 8 and Section 10 of this
8 act become effective October 1, 1998. Section 9 of this act
9 becomes effective becomes effective October 1, 1999.



LEGISLATIVE PROPOSAL 1: *Small Business Information Assistance*

The Committee heard a common theme expressed throughout the presentations made to it: small businesses need access to a single place in State government where they can obtain confidential answers to a myriad of questions ranging from taxation to regulations, from worker's compensation to forms. Based upon the overwhelming cry for this type of assistance, the Committee recommends the creation of a Small Business Ombudsman. The Committee recommends placing this function in the Secretary of State's Office to tie into its one-stop licensing operation. In addition, the Committee recommends that each agency that has day-to-day contact with small business should be required to designate an employee as a contact for small business persons seeking agency assistance. Confidentiality that is requested by businesses seeking assistance would be maintained to protect communication of persons seeking information and relief. In addition, the ombudsman would be required to make reports of contacts (nature of problem, agency called, response to problem raised) to help identify recurring problem areas and to enable it to make recommendations to the General Assembly on legislative changes that can be made to assist small business.

The General Assembly created the Business License Information Office in 1987 as a one-stop system for the business community to acquire and maintain the necessary State licenses to conduct business. Sections 1, 2, 4, and 5 of this proposal expands the scope of this office to include the provision of information and assistance to small businesses regarding statutory and regulatory requirements. The Office will establish a program in which it can work with the small business community to identify problems in State government related to unnecessary delays, inconsistencies between regulatory agencies, and the inefficient and ineffective uses of State resources.

Under the current law, each agency has a business license coordinator that works with the Business License Information Office. Section 7 of the proposal expands the responsibilities of this coordinator to include assistance related to the regulatory authority of the agency. The coordinator will provide assistance to the Office in ascertaining the status of a request for information or assistance from the agency, the reason for any delay, and the action needed to end the delay. The coordinator will also work with the Office to resolve any dispute that may arise between the agency and business regarding compliance with laws, rules, or policies of the State or agency. Section 8 of the proposal ensures that the

identity of the person or entity requesting assistance or information remains confidential.

Section 6 of the proposal requires the Office to track the number of contacts or inquiries received each year, the nature of each contact or inquiry, and the final resolution offered in response to it. This information will provide the Office with any information it needs to recommend legislative or administrative revisions. Section 3 of the proposal provides that the Secretary of State may report to the Joint Legislative Commission on Governmental Operations on any recommended legislative or administrative revisions the Secretary determines is necessary to make State government communications and relations with the public more effective and efficient. Effective October 1, 1999, Section 9 of the proposal requires the Secretary to report annually to the Joint Legislative Commission on Governmental Operations on the most common and egregious problems the public has had in communicating with and obtaining information from State agencies during the prior year. This report must include a summary of the complaints the Office has received during the prior year, as well as the number, nature, and resolution of the inquiries received by the Office. The remainder of the proposal becomes effective October 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S/H

D

LEGISLATIVE PROPOSAL 2

98-RBZ-16.0

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

13-MAY-98 14:59:05

Short Title: Repeal Inheritance Tax.

(Public)

Sponsors: Representatives Cansler and Shubert.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ELIMINATE THE NORTH CAROLINA INHERITANCE TAX AND TO
3 RETAIN A STATE ESTATE TAX EQUAL TO THE FEDERAL STATE DEATH TAX
4 CREDIT.
5 The General Assembly of North Carolina enacts:
6 Section 1. Article 1 of Chapter 105 of the General
7 Statutes is repealed.
8 Section 2. Chapter 105 of the General Statutes is
9 amended by adding a new Article to read:
10 "ARTICLE 1A.
11 "Estate Taxes.
12 "§ 105-32.1. Definitions.
13 The following definitions apply in this Article:
14 (1) Code. -- Defined in G.S. 105-228.90.
15 (2) Personal representative. -- The person appointed by
16 the clerk of superior court under Chapter 28A of
17 the General Statutes to administer the estate of a
18 decedent or, if no one is appointed under that
19 Chapter, the person required to file a federal
20 estate tax return for the estate of the decedent.
21 (3) Secretary. -- Defined in G.S. 105-228.90.

1 "§ 105-32.2. Estate tax imposed in amount equal to federal state
2 death tax credit.

3 (a) Tax. -- An estate tax is imposed on the estate of a
4 decedent when a federal estate tax is imposed on the estate under
5 section 2001 of the Code and any of the following apply:

6 (1) The decedent was a resident of this State at death.

7 (2) The decedent was not a resident of this State at
8 death and owned any of the following:

9 a. Real property or tangible personal property
10 that is located in this State.

11 b. Intangible personal property that has a tax
12 situs in this State.

13 (b) Amount. -- The amount of the estate tax imposed by this
14 section is the maximum credit for state death taxes allowed under
15 section 2011 of the Code. If any property in the estate is
16 located in a state other than North Carolina, the amount of tax
17 payable is the North Carolina percentage of the credit.

18 If the decedent was a resident of this State at death, the
19 North Carolina percentage is the net value of the estate that
20 does not have a tax situs in another state, divided by the net
21 value of all property in the estate. If the decedent was not a
22 resident of this State at death, the North Carolina percentage is
23 the net value of real property that is located in North Carolina
24 plus the net value of any personal property that has a tax situs
25 in North Carolina, divided by the net value of all property in
26 the estate, unless the decedent's state of residence uses a
27 different formula to determine that state's percentage. In that
28 circumstance, the North Carolina percentage is the amount
29 determined by the formula used by the decedent's state of
30 residence.

31 The net value of property that is located in or has a tax situs
32 in this State is its gross value reduced by any debt secured by
33 that property. The net value of all the property in the estate
34 is its gross value reduced by any debts and deductions of the
35 estate.

36 "§ 105-32.3. Liability for estate tax.

37 (a) Primary. -- The tax imposed by this Article is payable
38 from the assets of the estate. A person who receives property
39 from an estate is liable for the amount of estate tax
40 attributable to that property.

41 (b) Personal Representative. -- The personal representative of
42 an estate is liable for an estate tax that is not paid within two
43 years after it was due. This liability is limited to the value
44 of the assets of the estate that were under the control of the

1 personal representative. The amount for which the personal
2 representative is liable may be recovered from the personal
3 representative or from the surety on any bond filed by the
4 personal representative under Article 8 of Chapter 28A of the
5 General Statutes.

6 (c) Clerk of Court. -- A clerk of court who allows a personal
7 representative to make a final settlement of an estate without
8 presenting one of the following is liable on the clerk's bond for
9 any estate tax due:

10 (1) An affirmation by the personal representative
11 certifying that no tax is due on the estate because
12 this Article does not require an estate tax return
13 to be filed for that estate.

14 (2) A certificate issued by the Secretary stating that
15 the tax liability of the estate has been satisfied.

16 "§ 105-32.4. Payment of estate tax.

17 (a) Due Date. -- The estate tax imposed by this Article is due
18 when an estate tax return is due. An estate tax return is due on
19 the date a federal estate tax return is due.

20 (b) Filing Return. -- An estate tax return must be filed under
21 this Article if a federal estate tax return is required. The
22 return must be filed by the personal representative of the estate
23 on a form provided by the Secretary.

24 (c) Extension. -- An extension of time to file a federal
25 estate tax return is an automatic extension of the time to file
26 an estate tax return under this Article. The Secretary may, in
27 accordance with G.S. 105-263, extend the time for paying the
28 estate tax imposed by this Article or for filing an estate tax
29 return.

30 (d) Interest and Penalties. -- The penalties in G.S. 105-236
31 apply to the failure to file an estate tax return or to pay an
32 estate tax when due. Interest at the rate set in G.S. 105-241.1
33 accrues on estate taxes paid after the date they are due.

34 (e) Obtaining Amount Due. -- The personal representative of
35 an estate may sell assets in the estate to obtain money to pay
36 the tax imposed by this Article.

37 "§ 105-32.5. Making installment payments of tax due when federal
38 estate tax is payable in installments.

39 A personal representative who elects under section 6166 of the
40 Code to make installment payments of federal estate tax may elect
41 to make installment payments of the tax imposed by this Article.
42 An election under this section extends the time for payment of
43 the tax due in accordance with the extension elected under
44 section 6166 of the Code. Payments of tax are due under this

1 section at the same time and in the same proportion to the total
2 amount of tax due as payments of federal estate tax under section
3 6166 of the Code. Acceleration of payments under section 6166 of
4 the Code accelerates the payments due under this section.

5 "§ 105-32.6. Estate tax is a lien on real property in the
6 estate.

7 The tax imposed by this Article on an estate is a lien on the
8 real property in the estate and on the proceeds of the sale of
9 the real property in the estate. The lien is extinguished when
10 one of the following occurs:

11 (1) The personal representative certifies to the clerk
12 of court that no tax is due on the estate because
13 this Article does not require an estate tax return
14 to be filed for that estate.

15 (2) The Secretary issues a certificate stating that the
16 tax liability of the estate has been satisfied.

17 (3) For specific real property, when the Secretary
18 issues a tax waiver for that property.

19 (4) Ten years have elapsed since the date of the
20 decedent's death.

21 "§ 105-32.7. Generation-skipping transfer tax.

22 (a) Tax. -- A tax is imposed on a generation-skipping transfer
23 that is subject to the tax imposed by Chapter 13 of Subtitle B of
24 the Code when any of the following apply:

25 (1) The original transferor is a resident of this State
26 at the date of the original transfer.

27 (2) The original transferor is not a resident of this
28 State at the date of the original transfer and the
29 transfer includes any of the following:

30 a. Real or tangible personal property that is
31 located in this State.

32 b. Intangible personal property that has a tax
33 situs in this State.

34 (b) Amount. -- The amount of the tax imposed by this section is
35 the maximum credit for state generation-skipping transfer taxes
36 allowed under section 2604 of the Code. If property in the
37 transfer is located in a state other than North Carolina, the
38 amount of tax payable is the North Carolina percentage of the
39 credit.

40 If the original transferor was a resident of this State at the
41 date of the original transfer, the North Carolina percentage is
42 the net value of the property transferred that does not have a
43 tax situs in another state, divided by the net value of all
44 property transferred. If the original transferor was not a

1 resident of this State at the date of the original transfer, the
2 North Carolina percentage is the net value of real property that
3 is located in North Carolina plus the net value of any personal
4 property that has a tax situs in North Carolina, divided by the
5 net value of all property transferred, unless the original
6 transferor's state of residence uses a different formula to
7 determine that state's percentage. In that circumstance, the
8 North Carolina percentage is the amount determined by the formula
9 used by the original transferor's state of residence.

10 The net value of property that is located in or has a tax situs
11 in this State is its gross value reduced by any debt secured by
12 that property. The net value of all the property in a transfer
13 is its gross value reduced by any debts secured by the property.

14 (c) Payment. -- The tax imposed by this section is due when a
15 return is due. A return is due the same date as the federal
16 return for payment of the federal generation-skipping transfer
17 tax. The tax is payable by the person who is liable for the
18 federal generation-skipping transfer tax.

19 "§ 105-32.8. Federal determination that changes the amount of
20 tax payable to the State.

21 If the federal government corrects or otherwise determines the
22 amount of the maximum state death tax credit allowed an estate
23 under section 6166 of the Code, the personal representative must,
24 within two years after being notified of the correction or final
25 determination by the federal government, file an estate tax
26 return with the Secretary reflecting the correct amount of tax
27 payable under this Article. If the federal government corrects
28 or otherwise determines the amount of the maximum state
29 generation-skipping transfer tax credit allowed under section
30 2604 of the Code, the person who made the transfer must, within
31 two years after being notified of the correction or final
32 determination by the federal government, file a tax return with
33 the Secretary reflecting the correct amount of tax payable under
34 this Article.

35 The Secretary must assess and collect any additional tax due as
36 provided in Article 9 of this Chapter and must refund any
37 overpayment of tax as provided in Article 9 of this Chapter. A
38 person who fails to report a federal correction or determination
39 in accordance with this section is subject to the penalties in
40 G.S. 105-236 and forfeits the right to any refund due by reason
41 of the determination."

42 Section 3. This act does not affect the rights or
43 liabilities of the State, a taxpayer, or another person arising
44 under a statute amended or repealed by this act before the

1 effective date of its amendment or repeal; nor does it affect the
2 right to any refund or credit of a tax that was available under
3 the amended or repealed statute before the effective date of its
4 amendment or repeal.

5 Section 4. This act becomes effective October 1, 1998,
6 and applies to the estates of decedents dying on or after that
7 date.

LEGISLATIVE PROPOSAL 2: *Repeal Inheritance Tax*

Death taxes, whether state or federal, represent a roadblock to the long-term stability of successful family-owned businesses, including family farms. In many cases, the taxes on the estate of the primary owner of the firm forces the sale of the business. In addition, many small business owners have a problem with the fact that the federal government and the state taxes both the income from the business and the transfer of the ownership of the business at death. Finally, many people from all walks of life have a philosophical aversion to taxing death. If these dollars are needed to provide basic services, many taxpayers would prefer that the assessments apply to income earned by the business or its owners. In response to these concerns of small business owners, the Committee recommends that the North Carolina inheritance be eliminated as soon as possible.

This proposal repeals the State inheritance tax, effective October 1, 1998, and retains a State estate tax that is equivalent to the federal state death tax credit allowed on a federal estate tax return. This type of State estate tax is known as a "pick-up" tax because it picks up for the State the amount of federal estate tax that would otherwise be paid to the federal government. The net fiscal impact to the General Fund is \$75 million.

North Carolina imposes an inheritance tax on property transferred by a decedent. The amount of tax payable depends on the relationship of the person transferring the property (the decedent) to the person receiving the property (the beneficiary). This is in contrast to federal law, which has a single rate schedule for estates.

State law classifies beneficiaries into three classes, Class A, Class B, and Class C, and sets different inheritance tax rates for each class. A Class A beneficiary is a lineal ancestor, a lineal descendant, an adopted child, a step-child, or a son-in-law or daughter-in-law whose spouse is not entitled to any of the decedent's property. A Class B beneficiary is a sibling, a descendant of a sibling, or an aunt or uncle by blood. A Class C beneficiary is anyone who is not a Class A or Class B beneficiary.

Class A beneficiaries have the lowest inheritance tax rates and a \$600,000 inheritance tax exemption. Class B beneficiaries have higher rates and no exemption. Class C beneficiaries have the highest rates and no exemption. Thus, North Carolina's rate structure favors transfers to

children and parents by giving those transfers the lowest rates plus an exemption and prefers transfers to other close family members over transfers to more distant relatives or to persons who are not related.

The Committee recognizes that competing tax cut pressures, such as the repeal of the State sales tax on food, health insurance tax credit, and additional income tax relief, as well as spending commitments may mean that the \$75 million net cost to the State General Fund will need to be phased in over a number of years.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

LEGISLATIVE PROPOSAL 3

98-LC-286(4.14) (Z)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Lower Unemployment Tax in 1999.

(Public)

Sponsors: Representatives Fox and Owens.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE THE UNEMPLOYMENT INSURANCE TAX RATE FOR 1999 FOR
3 ALL EMPLOYERS WITH A POSITIVE EXPERIENCE RATING.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 96-9(b)(3)d3. reads as rewritten:
6 d3. The standard contribution rate set by
7 subdivision (b)(1) of this section applies to
8 an employer unless the employer's account has
9 a credit balance. Beginning January 1, 1995,
10 the contribution rate of an employer whose
11 account has a credit balance is determined in
12 accordance with the rate set in the following
13 Experience Rating Formula table for the
14 applicable rate schedule. The contribution
15 rate of an employer whose contribution rate is
16 determined by this Experience Rating Formula
17 table shall be reduced by ~~fifty percent (50%)~~
18 eighty percent (80%) for any year in which the
19 balance in the Unemployment Insurance Fund
20 equals or exceeds eight hundred million
21 dollars (\$800,000,000) on the computation date
22 and the fund ratio determined on that date is
23 less than five percent (5%) and shall be

1 reduced by ~~sixty percent (60%)~~ eighty percent
 2 (80%) for any year in which the balance in the
 3 Unemployment Insurance Fund equals or exceeds
 4 eight hundred million dollars (\$800,000,000)
 5 on the computation date, and the fund ratio
 6 determined on that date is five percent (5%)
 7 or more.

8
 9 EXPERIENCE RATING FORMULA

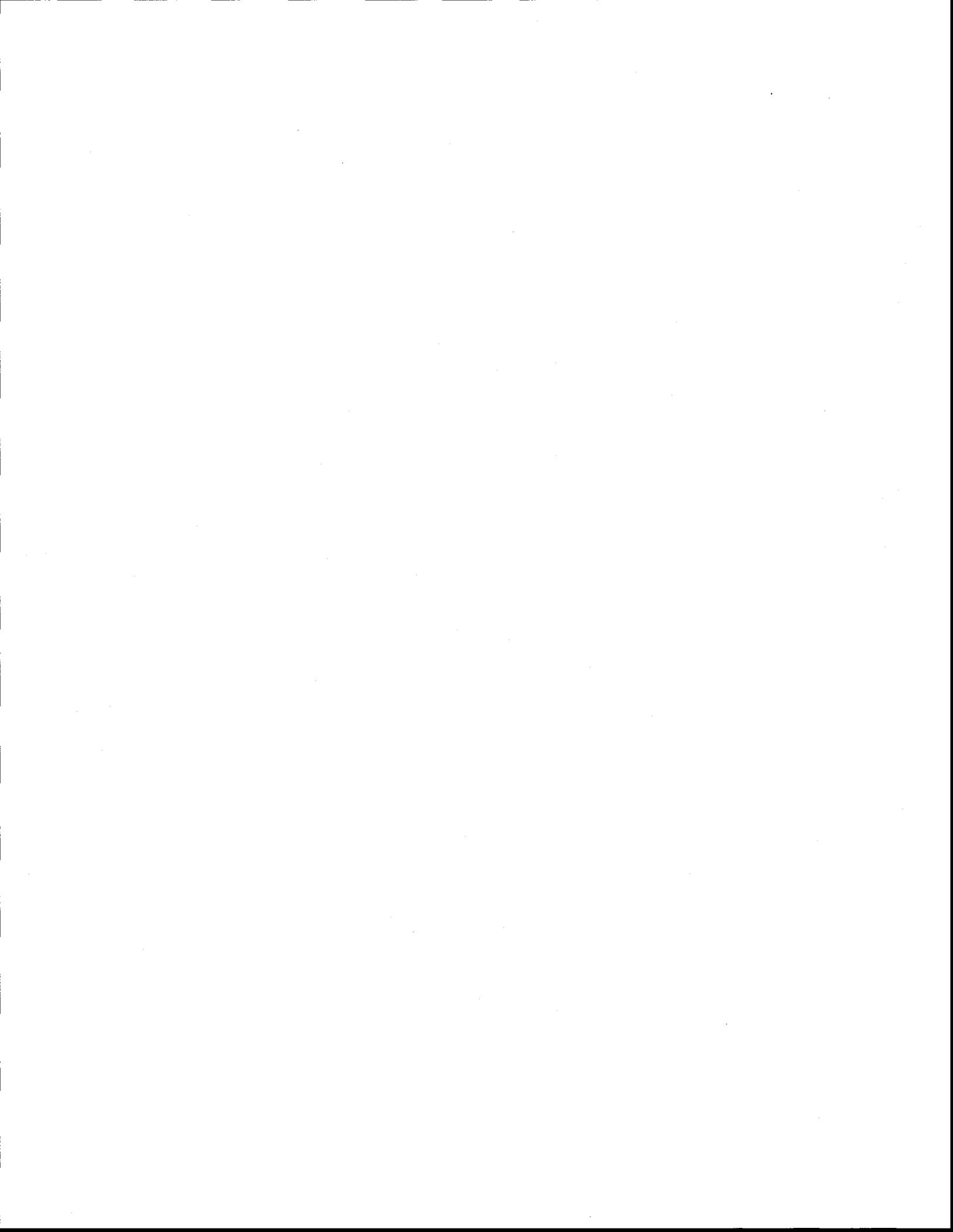
10
 11 When The Credit Ratio Is:

12 As But
 13 Much Less
 14 As Than

Rate Schedules (%)

	A	B	C	D	E	F	G	H	I		
15											
16	0.0%	0.2%	2.70%	2.70%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%
17	0.2%	0.4%	2.70%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%
18	0.4%	0.6%	2.70%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%
19	0.6%	0.8%	2.70%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%
20	0.8%	1.0%	2.50%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%
21	1.0%	1.2%	2.30%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%
22	1.2%	1.4%	2.10%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%
23	1.4%	1.6%	1.90%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%
24	1.6%	1.8%	1.70%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%
25	1.8%	2.0%	1.50%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%
26	2.0%	2.2%	1.30%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%
27	2.2%	2.4%	1.10%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%
28	2.4%	2.6%	0.90%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%
29	2.6%	2.8%	0.80%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%
30	2.8%	3.0%	0.70%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%
31	3.0%	3.2%	0.60%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%
32	3.2%	3.4%	0.50%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%
33	3.4%	3.6%	0.40%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%
34	3.6%	3.8%	0.30%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%
35	3.8%	4.0%	0.20%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%	0.04%
36	4.0%	4.2%	0.15%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%	0.04%	0.03%
37	4.2%	4.4%	0.10%	0.09%	0.08%	0.07%	0.06%	0.05%	0.04%	0.03%	0.02%
38	4.4%	4.6%	0.09%	0.08%	0.07%	0.06%	0.05%	0.04%	0.03%	0.02%	0.01%
39	4.6%	4.8%	0.08%	0.07%	0.06%	0.05%	0.04%	0.03%	0.02%	0.01%	0.01%
40	4.8%	5.0%	0.07%	0.06%	0.05%	0.04%	0.03%	0.02%	0.01%	0.01%	0.01%
41	5.0%										
42	&										
43	OVER	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
44											"

1 Section 2. This act is effective with respect to
2 calendar quarters beginning on or after January 1, 1999, and
3 before January 1, 2000.

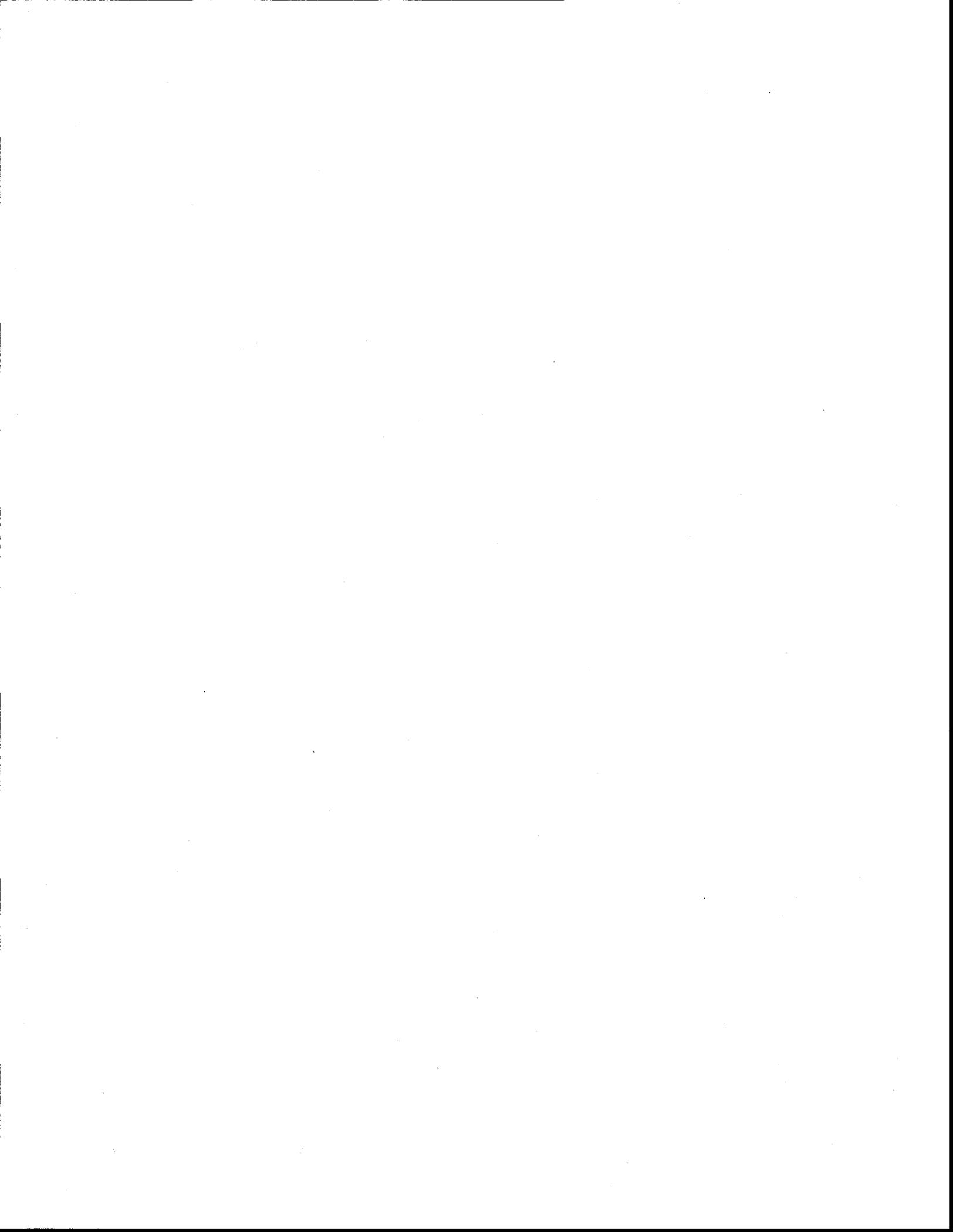


LEGISLATIVE PROPOSAL 3: *Lower Unemployment Tax in 1999*

The December 31, 1997, balance in the unemployment insurance fund was almost \$100 million higher than the Employment Security Commission estimated at the time the 1996 General Assembly suspended the tax for one year (estimated cost of \$135 million). Due to the way the tax schedule is set up, many employers are experiencing a 1998 tax increase even though they have not experienced layoffs. The reason has to do with the fact that as the **relative balance** in the unemployment trust fund (actual balance divided by taxable wages and salaries) drops due to the strong economy and prior tax cuts, a higher set of tax rates become effective. This automatic tax increase is designed to ensure that the fund balance does not drop too fast and force a legislative tax increase.

The problem with the self-correcting system is that it partially undermines the will of the General Assembly in reducing taxes for the 1992-96 period and is difficult for employers to comprehend. The view of a typical employer is that if the State cuts the tax and the employer does not experience layoffs, then the employer's tax liability should not go up. The Committee recommends, but does not propose, that the 1998 General Assembly carefully review whether the "automatic tax increase" mechanism should be changed.

The Committee also recommends in this Legislative Proposal #3 a one-time tax rate cut of \$100 million for the 1999 tax year. The rate cut would use up all of the surplus that was unintended when the Governor recommended a one-year tax moratorium in January 1996.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

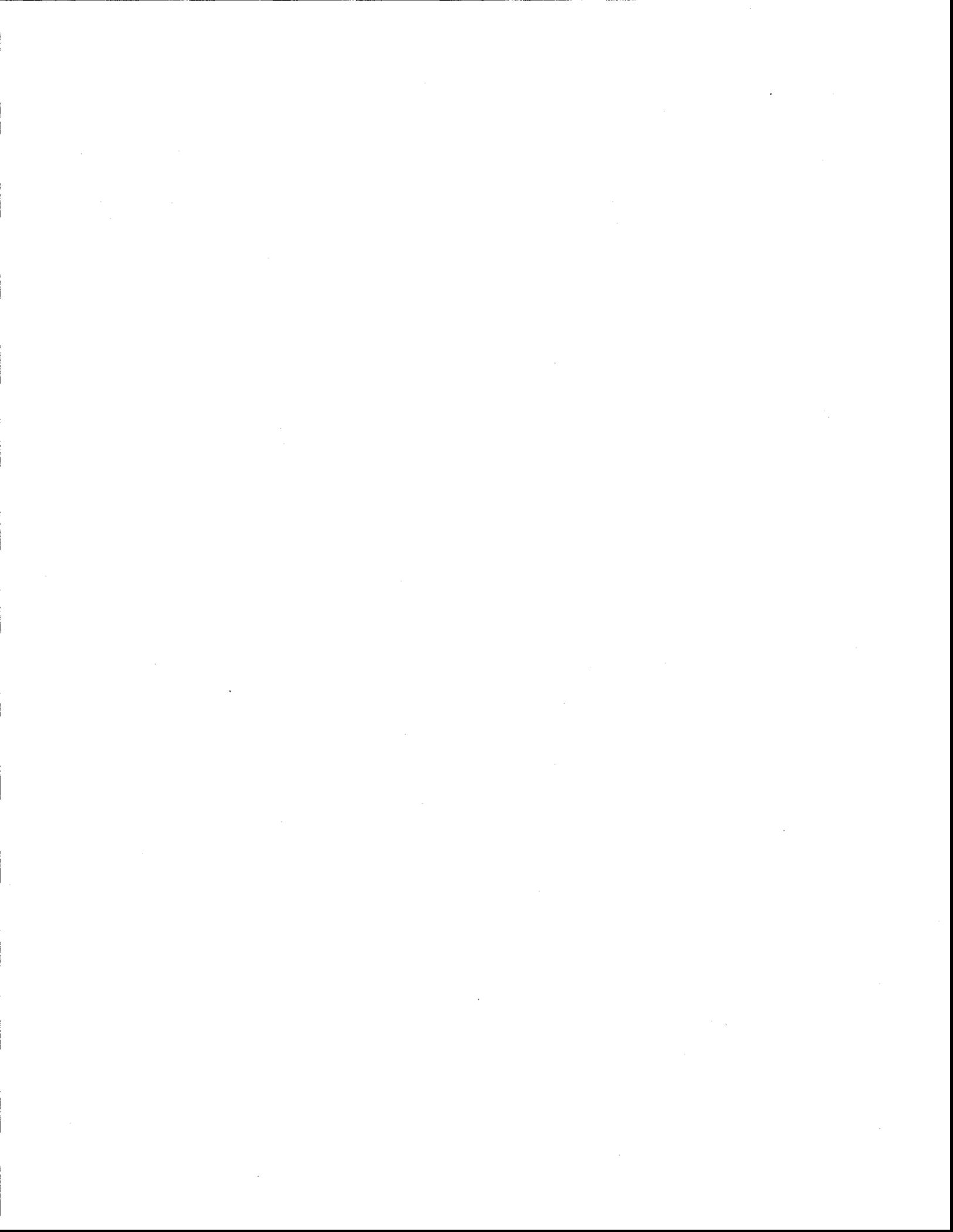
LEGISLATIVE PROPOSAL 4
98-LC-285(4.14) (Z)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Prohibit Internet Taxation. (Public)

Sponsors: Representatives Shubert and Brawley.

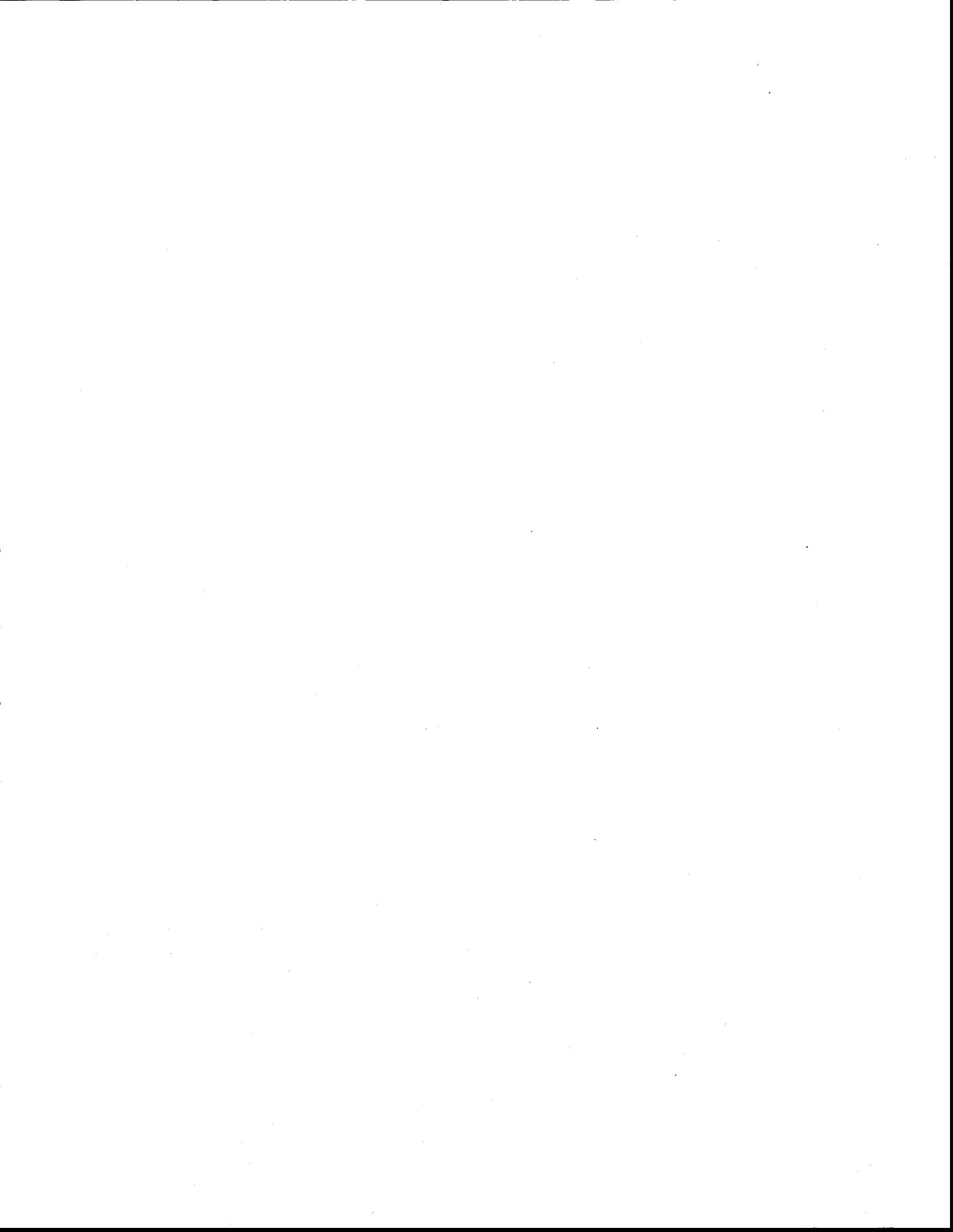
Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE THAT THE STATE SHALL NOT TAX INTERNET ACCESS
3 CHARGES, SHALL ENFORCE SALES TAXES ON INTERNET COMMERCE ONLY TO
4 THE SAME EXTENT IT ENFORCES SALES TAX ON MAIL ORDER COMMERCE,
5 AND SHALL IMPOSE NO NEW TAXES ON THE INTERNET OR INTERNET
6 COMMERCE.
7 The General Assembly of North Carolina enacts:
8 Section 1. It is the intent of the General Assembly
9 that no new taxes shall be authorized on Internet access charges,
10 the Internet, or Internet commerce.
11 Section 2. The Department of Revenue shall enforce the
12 sales and use tax laws with respect to Internet Commerce only to
13 the same extent it enforces the sales and use tax laws with
14 respect to mail order commerce.
15 Section 3. This act is effective when it becomes law
16 and applies to transactions occurring on or after April 15, 1998.



LEGISLATIVE PROPOSAL 4: *Prohibit Internet Taxation*

The advent of the Internet has enabled North Carolinians to access information in a cost-effective manner. It has also enabled the State's growing small business population to market products and services to a much wider audience for much less resources than ever before. Even though there may eventually be a national prohibition, state action is needed to reserve the right of states to act on tax policy issues. To this end, the Committee recommends that the State not tax internet access charges, that it enforce sales taxes on internet commerce only to the same extent it enforces sales tax on mail order commerce, and that it not impose new taxes on the internet or internet commerce. Legislation to carry out this objective is contained in this Legislative Proposal #4. At the current time, tax administrators from around the U. S. indicate that very few revenue dollars come from the new taxes. Thus, the current cost to the State budget of the proposal is insignificant.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

LEGISLATIVE PROPOSAL 5
98-LE-129(4.15) (Z)
(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Reform of State Procurement Process. (Public)

Sponsors: Representatives Brawley and Tolson.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPROVE THE STATE PROCUREMENT PROCESS.
3 The General Assembly of North Carolina enacts:
4 Section 1. G.S. 143-53.1 reads as rewritten:
5 "§ 143-53.1. Setting of benchmarks; increase by Secretary.
6 On and after July 1, 1997, the procedures prescribed by G.S.
7 143-52 with respect to competitive bids and the bid value
8 benchmark authorized by G.S. 143-53(a)(2) with respect to rule
9 making by the Secretary of Administration for competitive bidding
10 shall be ~~no more than~~ twenty-five thousand dollars (\$25,000);
11 provided, the Secretary of Administration may, in his or her
12 discretion, increase the benchmarks effective as of the beginning
13 of any fiscal biennium of the State commencing after June 30,
14 1999, in an amount whose increase, expressed as a percentage,
15 does not exceed the rise in the Consumer Price Index during the
16 fiscal biennium next preceding the effective date of the
17 benchmark increase. For a special responsibility constituent
18 institution of The University of North Carolina, the benchmark
19 prescribed in this section shall be as provided in G.S. 116-
20 31.10."
21 Section 2. The Department of Administration shall
22 continue its practice of soliciting bids through electronic
23 means, whenever practicable. The Department shall also continue
24 work on developing a process for receiving competitive bids by

1 electronic means. This process shall be implemented as soon as
2 practicable, after procedures are developed to ensure the
3 security of bids submitted electronically and after standards for
4 electronic signatures are established.

5 Section 3. The Legislative Research Commission may
6 study the issue of State competition with the private sector. In
7 the course of the study, the Commission shall review the Umstead
8 Act, G.S. 66-58, and shall consider deletion from the act of
9 exemptions that place the State in unnecessary and inappropriate
10 competition with the private sector.

11 The Commission shall report the results of its study to
12 the 1999 General Assembly.

13 Section 4. This act is effective when it becomes law.

LEGISLATIVE PROPOSAL 5: *Reform of State Procurement Process*

The need to improve the State's procurement procedures was a commonly expressed theme throughout the Committee's discussions. This legislative proposal addresses three of the procurement related concerns raised by representatives of small business at the Committee's meetings:

1. Greater flexibility.
2. An online bidding process.
3. Review of the Umstead Act exemptions.

Section 1 of the proposal provides greater flexibility to agencies to purchase without using the State purchase and contract division. The proposal provides that purchases that do not exceed \$25,000 are not subject to the competitive bid requirements. The use of the \$25,000 bid level benchmark is the same change that will be recommended by the LRC Community College Committee. The legislature increased the dollar amount from "not more than \$10,000" to the current "not more than \$25,000" last session.

Section 2 applauds the Department of Administration's efforts to solicit bids through electronic means. It directs the Department to continue moving to put the State bidding process online for vendors to tap into by use of computers.

The Umstead Act, which prohibits the State from competing with private businesses, is riddled with exceptions. Its provisions do not apply to counties and cities as well as many State agencies, such as some of the State schools, the laundry service in the Department of Correction, and the North Carolina Global TransPark Authority. Its provisions do not prohibit the sale of products of experiment stations or test farms, the operation by the public schools of school cafeterias, or the sale of instructional supplies by the State Board of Education. Although many of these exceptions are needed, the Committee recommends that the Legislative Research Commission review them to ensure that they do not undermine the original intent of the Act.

The Committee also recommends that the State encourage equitable participation in purchasing by making sure the State Purchasing Division and State agencies treat all small vendors fairly. However, the Committee does not endorse, and in fact would recommend prohibiting, set asides.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

LEGISLATIVE PROPOSAL 6

98-RBZ-26

THIS IS A DRAFT 13-MAY-98 15:25:50

Short Title: Building Code Council/Economic Impact. (Public)

Sponsors: Representatives Morris and H. Hunter.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE NUMBER OF CONTRACTORS ON THE BUILDING CODE
3 COUNCIL AND TO REQUIRE COUNCIL TO CONSIDER THE IMPACT OF CODE
4 CHANGES ON THE AFFORDABILITY OF RESIDENTIAL HOUSING.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 143-136(a) reads as rewritten:
7 "(a) Creation; Membership; Terms. -- There is hereby created a
8 Building Code Council, which shall be composed of ~~15~~ 17 members
9 appointed by the Governor, consisting of ~~one~~ two registered
10 architect, one licensed general contractor, ~~one registered~~
11 ~~architect~~ ~~or~~ licensed general contractor specializing in
12 residential ~~design~~ ~~or~~ construction, one licensed general
13 contractor specializing in coastal residential construction, one
14 registered engineer practicing structural engineering, one
15 registered engineer practicing mechanical engineering, one
16 registered engineer practicing electrical engineering, one
17 licensed plumbing and heating contractor, one municipal or county
18 building inspector, one licensed liquid petroleum gas
19 dealer/contractor involved in the design of natural and liquid
20 petroleum gas systems who has expertise and experience in natural

1 and liquid petroleum gas piping, venting and appliances, a
2 representative of the public who is not a member of the building
3 construction industry, a licensed electrical contractor, a
4 registered engineer on the engineering staff of a State agency
5 charged with approval of plans of State-owned buildings, a
6 municipal elected official or city manager, a county commissioner
7 or county manager, and an active member of the North Carolina
8 fire service with expertise in fire safety. In selecting the
9 municipal and county members, preference should be given to
10 members who qualify as either a registered architect, registered
11 engineer, or licensed general contractor. Of the members
12 initially appointed by the Governor, three shall serve for terms
13 of two years each, three shall serve for terms of four years
14 each, and three shall serve for terms of six years each.
15 Thereafter, all appointments shall be for terms of six years. The
16 Governor may remove appointive members at any time. Neither the
17 architect nor any of the above named engineers shall be engaged
18 in the manufacture, promotion or sale of any building material,
19 and any member who shall, during his term, cease to meet the
20 qualifications for original appointment (through ceasing to be a
21 practicing member of the profession indicated or otherwise) shall
22 thereby forfeit his membership on the Council. In making new
23 appointments or filling vacancies, the Governor shall ensure that
24 minorities and women are represented on the Council.

25 The Governor may make appointments to fill the unexpired
26 portions of any terms vacated by reason of death, resignation, or
27 removal from office. In making such appointment, he shall
28 preserve the composition of the Council required above."

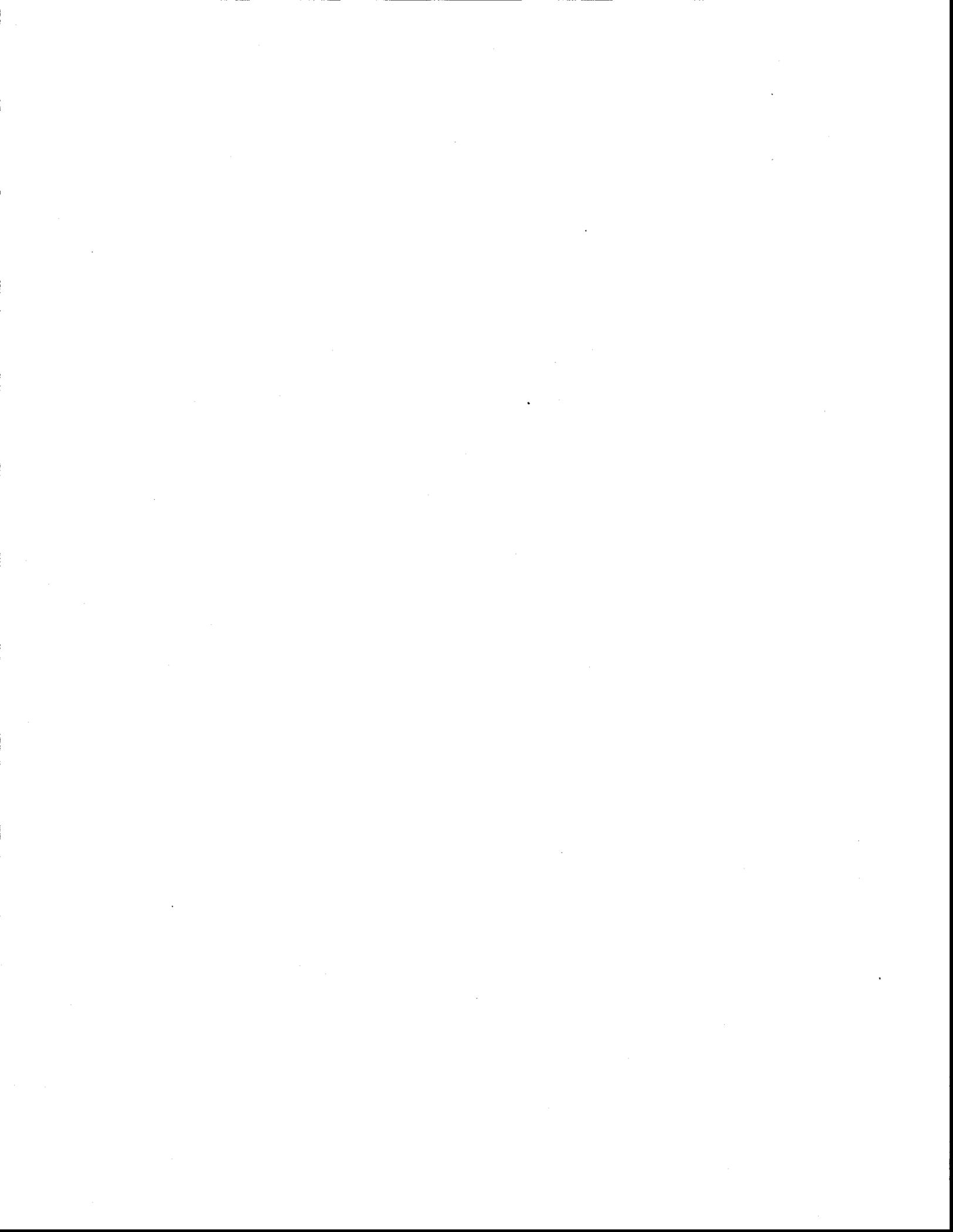
29 Section 2. G.S. 143-138(a) reads as rewritten:

30 "(a) Preparation and Adoption. -- The Building Code Council is
31 hereby empowered to prepare and adopt, in accordance with the
32 provisions of this Article, a North Carolina State Building Code.
33 Prior to the adoption of this Code, or any part thereof, the
34 Council shall hold at least one public hearing. A notice of such
35 public hearing shall be given once a week for two successive
36 calendar weeks in a newspaper published in Raleigh, said notice
37 to be published the first time not less than 15 days prior to the
38 date fixed for said hearing. The Council may hold such other
39 public hearings and give such other notice as it may deem
40 necessary.

1 The Council shall request the Office of State Budget and
2 Management to prepare a fiscal note for a proposed Code change
3 that has a substantial economic impact, as defined in ~~G.S.~~
4 ~~150B-21.4(b1)~~ G.S. 150B-21.4(b1), or that increases the cost of
5 residential housing by eight dollars (\$80.00) or more per housing
6 unit. The Council shall not take final action on a proposed Code
7 change that has a substantial economic impact or that increases
8 the cost of residential housing by eighty dollars (\$80.00) or
9 more per housing unit until at least 60 days after the fiscal
10 note has been prepared. The change can become effective only in
11 accordance with G.S. 143-138(d)."

12 Section 3. The Building Code Council shall reexamine
13 the windload resistance requirements as they apply to residential
14 dwellings. In its review of the windload resistance
15 requirements, the Council shall consider site specific factors,
16 the actual experience to date of the existing windload resistance
17 requirements, and the impact of the proposed requirements on
18 housing affordability.

19 Section 4. Sections 1 and 2 of this act become
20 effective October 1, 1998. The remainder of this act is
21 effective when it becomes law.



LEGISLATIVE PROPOSAL 6:
Building Code Council/Economic Impact

Legislative Proposal 6 addresses the composition of the Building Code Council and requires the Council to consider the impact of Building Code changes on the affordability of residential housing.

To ensure a balanced membership on the Building Code Council, both geographically and professionally, Section 1 of the proposal expands the membership of the Building Code Council to include a licensed general contractor that specializes in residential construction and a licensed general contractor that specializes in coastal residential construction.

The Business Development Committee recognizes that changes to the building code often affects the prices of residential homes. The Committee believes the impact of building code changes on the affordability of housing should be considered by the Building Code Council when those changes are proposed. Section 2 of the proposal would require the Council to have the Office of State Budget and Management prepare a fiscal note for any proposed Code change that would increase the cost of residential housing by \$80 or more per housing unit. Section 3 of the proposal directs the Council to reexamine the windload resistance requirements as they apply to residential dwellings. In its review, the Council should consider site specific factors, the actual experience to date of the existing requirements, and the impact of the requirements on housing affordability.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

LEGISLATIVE PROPOSAL 7
98-RBZ-27
THIS IS A DRAFT 13-MAY-98 15:28:51

Short Title: Post Proposed Rules on Internet. (Public)

Sponsors: Representatives Morris and Fox.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE STATE AGENCIES TO PUBLISH THE TEXT OF A
3 PROPOSED RULE ON THE INTERNET.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 150B-21.2(a) reads as rewritten:
6 "(a) Steps. -- Before an agency adopts a permanent rule, it
7 must take the following actions:
8 (1) Publish a notice of rule-making proceedings in the
9 North Carolina Register, unless the proposed rule
10 is substantially the same as a temporary rule
11 published in the North Carolina Register.
12 (2) When required by G.S. 150B-21.4, prepare or obtain
13 a fiscal note for the proposed rule.
14 (3) Publish the text of the proposed rule in the North
15 Carolina Register, ~~Register~~ Register and on the Internet.
16 (4) When required by subsection (e) of this section,
17 hold a public hearing on the proposed rule after
18 publication of the proposed text of the rule.

1 (5) Accept oral or written comments on the proposed
2 rule as required by subsection (f) of this
3 section."
4 Section 2. This act becomes effective January 1, 1999.

LEGISLATIVE PROPOSAL 7:
Post Proposed Rules on Internet

The Business Development Committee heard a desire from several small business representatives that the rule-making process be more easily accessible to the public. In Legislative Proposal #7, the Committee recommends that state agencies be required to post proposed rules on the Internet as well as in the North Carolina Register. The Committee recommends, but does not propose at this time, that the North Carolina Code of Administrative Rules be available on the Internet.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

LEGISLATIVE PROPOSAL 8

98-RBZ-14.0

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

15:31:46 13-MAY-98

Short Title: Franchise Tax Credit for CIP.

(Public)

Sponsors: Representatives Sexton and H. Hunter.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW A CREDIT AGAINST THE FRANCHISE TAX FOR PROPERTY
3 TAXES PAID ON CONSTRUCTION IN PROGRESS.
4 The General Assembly of North Carolina enacts:
5 Section 1. Chapter 105 of the General Statutes is
6 amended by adding a new section to read:
7 "§ 105-127.1. Credit for property tax paid on construction in
8 progress.
9 (a) Credit. -- A person, firm, or corporation required to file
10 a report and remit a tax under this Article is allowed a credit
11 against the tax imposed by this Article equal to the amount of
12 property taxes the taxpayer paid at par during the calendar year
13 next preceding the due date of the franchise tax return on
14 construction in progress. In addition, a person, firm, or
15 corporation that must file a report and remit a tax under this
16 Article that is the owner of a pass-through entity that is not
17 subject to the tax imposed under this Article is allowed a credit
18 against the tax imposed by this Article equal to the taxpayer's
19 pro rata share of the amount of property taxes the pass-through
20 entity paid at par during the calendar year next preceding the
21 due date of the franchise tax return on construction in progress.
22 The total credit allowed under this section for the taxable year

1 may not exceed the amount of tax imposed by this Article for the
2 taxable year reduced by the sum of all credits allowed against
3 this tax, except payments of tax made by or on behalf of the
4 taxpayer. To claim the credit, the taxpayer must attach to the
5 return a copy of the tax receipt for the property taxes for which
6 a credit is claimed. The receipt must indicate that the taxes
7 have been paid and the amount and date of the payment.

8 (b) Adjustment. -- If a taxing unit gives a taxpayer a credit
9 or refund for any of the property taxes for which the taxpayer
10 claimed a credit under this section, the taxpayer must notify
11 the Secretary of Revenue within 90 days. The Secretary shall
12 then recompute the credit allowed under this section and make any
13 resulting adjustment of franchise tax for the taxable year for
14 which the credit was claimed.

15 (c) Definition. -- For the purposes of this section, the term
16 "construction in progress" has the same meaning as defined in
17 G.S. 105-273."

18 Section 2. G.S. 105-273 reads as rewritten:
19 "§ 105-273. Definitions.

20 ~~When used in this Subchapter (unless the context requires a~~
21 ~~different meaning):~~ The following definitions apply in this
22 Subchapter:

- 23 (1) ~~"Abstract" means the~~ Abstract. -- The document on
24 which the property of a taxpayer is listed for ad
25 valorem taxation and on which the appraised and
26 assessed values of the property are recorded.
27 (2) ~~"Appraisal" means both~~ Appraisal. -- Both the
28 true value of property and the process by which
29 true value is ascertained.
30 (3) ~~"Assessment" means both~~ Assessment. -- Both the
31 tax value of property and the process by which
32 the assessment is determined.
33 (4) Repealed by Session Laws 1973, c. 695, s. 15.
34 (4a) Business personal property. -- Personal property
35 that is not non-business property.
36 (5) ~~"Collector" or "tax collector" means any person~~
37 ~~charged with the duty of collecting taxes for a~~
38 ~~county or municipality.~~ Collector. -- A tax
39 collector.
40 (5a) ~~"Contractor" means a~~ Construction in progress. --
41 Tangible business personal property that is on
42 site but which the taxpayer has not yet begun to
43 depreciate for federal income tax purposes

- 1 because the property has not been placed in
2 service.
- 3 (5b) Contractor. -- A taxpayer who is regularly
4 engaged in building, installing, repairing, or
5 improving real property.
- 6 (6) "Corporation" includes Corporation. -- A
7 nonprofit corporation and every type of
8 organization having capital stock represented by
9 shares.
- 10 (6a) "Discovered property" includes all Discovered
11 property. -- All of the following:
12 a. Property that was not listed during a listing
13 period.
14 b. Property that was listed but the listing
15 included a substantial understatement.
16 c. Property that has been granted an exemption or
17 exclusion and does not qualify for the
18 exemption or exclusion.
- 19 (6b) "To discover property" means to To discover
20 property. -- To determine any of the following:
21 a. Property has not been listed during a listing
22 period.
23 b. A taxpayer made a substantial understatement
24 of listed property.
25 c. Property was granted an exemption or exclusion
26 and the property does not qualify for an
27 exemption or exclusion.
- 28 (7) "Document" includes Document. -- A book, paper,
29 record, statement, account, map, plat, film,
30 picture, tape, object, instrument, and or any
31 other thing conveying information.
- 32 (7a) "Failure to list property" includes all Failure
33 to list property. -- All of the following:
34 a. Failure to list property during a listing
35 period.
36 b. A substantial understatement of listed
37 property.
38 c. Failure to notify the assessor that property
39 granted an exemption or exclusion under an
40 application for exemption or exclusion does
41 not qualify for the exemption or exclusion.
- 42 (8) "Intangible personal property" means patents,
43 Intangible personal property. -- Patents,
44 copyrights, secret processes, formulae, good

- 1 will, trademarks, trade brands, franchises,
2 stocks, bonds, cash, bank deposits, notes,
3 evidences of debt, leasehold interests in
4 exempted real property, bills and accounts
5 receivable, and other like property.
- 6 (8a) ~~"Inventories" means Inventories.~~ -- Either of the
7 following: (i) goods held for sale in the regular
8 course of business by manufacturers, retail and
9 wholesale merchants, and contractors, and (ii)
10 goods held by contractors to be furnished in the
11 course of building, installing, repairing, or
12 improving real property. As to manufacturers, the
13 term includes raw materials, goods in process,
14 and finished goods, as well as other materials or
15 supplies that are consumed in manufacturing or
16 processing, or that accompany and become a part
17 of the sale of the property being sold. The term
18 also includes crops, livestock, poultry, feed
19 used in the production of livestock and poultry,
20 and other agricultural or horticultural products
21 held for sale, whether in process or ready for
22 sale. The term does not include fuel used in
23 manufacturing or processing, nor does it include
24 materials or supplies not used directly in
25 manufacturing or processing. As to retail and
26 wholesale merchants and contractors, the term
27 includes, in addition to articles held for sale,
28 packaging materials that accompany and become a
29 part of the sale of the property being sold.
- 30 (9) ~~"List" or "listing," when List.~~ -- When used as a
31 noun, the term 'list' or 'listing' means
32 abstract.
- 33 (10) Repealed by Session Laws 1987, c. 43, s. 1.
- 34 (10a) ~~"Local tax official" includes a Local tax~~
35 official. -- A county assessor, an assistant
36 county assessor, a member of a county board of
37 commissioners, a member of a county board of
38 equalization and review, a county tax collector,
39 and the municipal equivalents of these officials.
- 40 (10b) ~~"Manufacturer" means a Manufacturer.~~ -- A
41 taxpayer who is regularly engaged in the
42 mechanical or chemical conversion or
43 transformation of materials or substances into
44 new products for sale or in the growth, breeding,

- 1 raising, or other production of new products for
2 sale. The term does not include delicatessens,
3 cafes, cafeterias, restaurants, and other similar
4 retailers that are principally engaged in the
5 retail sale of foods prepared by them for
6 consumption on or off their premises.
- 7 (11) ~~"Municipal corporation" and "municipality" mean~~
8 Municipal corporation. -- A municipality.
- 9 (11a) Municipality. -- A city, a town, an incorporated
10 village, a sanitary district, a rural fire
11 protection district, a rural recreation district,
12 a mosquito control district, a hospital district,
13 a metropolitan sewerage district, a watershed
14 improvement district, or ~~other~~ another district
15 or unit of local government by or for which ad
16 valorem taxes are levied. The ~~terms also include~~
17 term also includes a consolidated city-county as
18 defined by G.S. 160B-2(1).
- 19 (11b) Non-business property. -- Personal property that
20 is used by the owner of the property for a
21 purpose other than the production of income and
22 is not used in connection with a business. The
23 term includes household furnishings, clothing,
24 pets, lawn tools, and lawn equipment.
- 25 (12) ~~"Person" and "he" include any individual,~~
26 ~~trustee, executor, administrator, other~~
27 ~~fiduciary, corporation, limited liability~~
28 ~~company, unincorporated association, partnership,~~
29 ~~sole proprietorship, company, firm, or other~~
30 ~~legal entity. Person. -- Defined in G.S. 105-~~
31 ~~228.90.~~
- 32 (13) ~~"Real property," "real estate," and "land" mean~~
33 ~~not only the land itself, but also Real property.~~
34 ~~-- Land, any buildings, structures, improvements,~~
35 ~~and permanent fixtures ~~thereon,~~ on the land, and~~
36 ~~all rights and privileges belonging or in any~~
37 ~~wise appertaining thereto. appertaining in any~~
38 ~~way to these things. The terms 'real estate' and~~
39 ~~'land' are synonyms for the term 'real property.'~~
40 These terms also mean a manufactured home as
41 defined in G.S. 143-143.9(6) if it is a multi-
42 section residential structure ~~(consisting of two~~
43 ~~or more sections);~~ consisting of two or more
44 sections, has the moving hitch, wheels, and axles

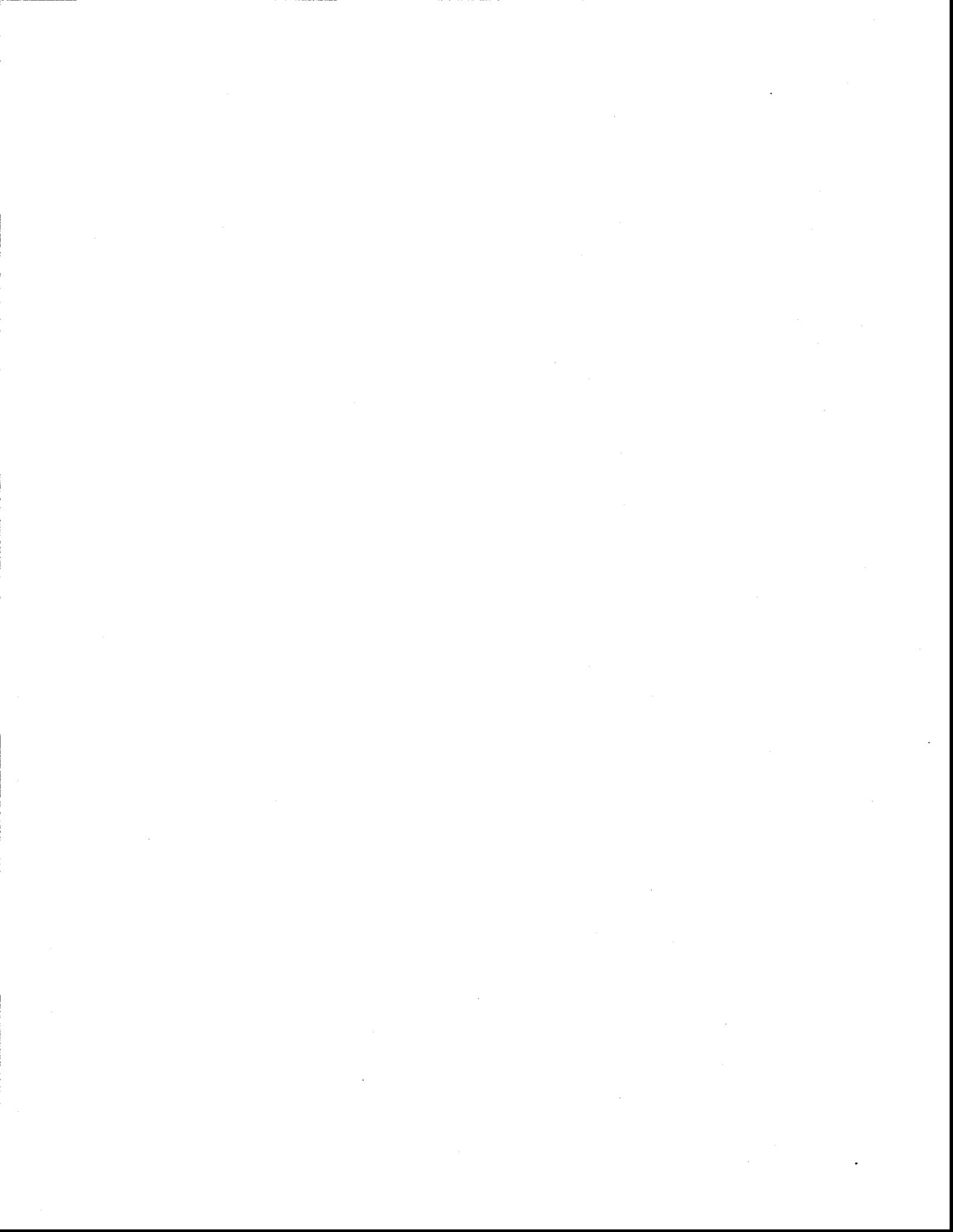
- 1 ~~removed;~~ removed, and is placed upon a permanent
2 enclosed foundation on land owned by the owner of
3 the manufactured home.
- 4 (13a) ~~"Retail Merchant" means a~~ Retail merchant. -- A
5 taxpayer who is regularly engaged in the sale of
6 tangible personal property, acquired by a means
7 other than manufacture, processing, or producing
8 by the merchant, to users or consumers.
- 9 (13b) ~~"Substantial understatement" means the~~
10 Substantial understatement. -- The omission of a
11 material portion of the value, quantity, or other
12 measurement of taxable property. The
13 determination of materiality in each case shall
14 be made by the assessor, subject to the
15 taxpayer's right to review of the determination
16 by the county board of equalization and review or
17 board of commissioners and appeal to the Property
18 Tax Commission.
- 19 (14) ~~"Tangible personal property" means all~~ Tangible
20 personal property. -- All personal property that
21 is not intangible and that is not permanently
22 affixed to real property.
- 23 (15) ~~"Tax" and "taxes" include the~~ Tax. -- The
24 principal amount of any tax, costs, penalties,
25 and interest imposed upon property tax or dog
26 license tax.
- 27 (15a) Tax collector. -- A person charged with the duty
28 of collecting taxes for a county or municipality.
- 29 (16) ~~"Taxing unit" means a~~ Taxing unit. -- A county or
30 municipality authorized to levy ad valorem
31 property taxes.
- 32 (17) ~~"Taxpayer" means any~~ Taxpayer. -- A person whose
33 property is subject to ad valorem property
34 taxation by any county or municipality ~~and any or~~
35 person who, under the terms of this Subchapter,
36 has a duty to list property for taxation.
- 37 (18) ~~"Valuation" means appraisal~~ Valuation. --
38 Appraisal and assessment.
- 39 (19) ~~"Wholesale Merchant" means a~~ Wholesale merchant.
40 -- A taxpayer who is regularly engaged in the
41 sale of tangible personal property, acquired by a
42 means other than manufacture, processing, or
43 producing by the merchant, to other retail or
44 wholesale merchants for resale or to

1 manufacturers for use as ingredient or component
2 parts of articles being manufactured for sale.

3 Section 3. G.S. 105-275(16) reads as rewritten:

4 "(16) Non-business Property. ~~As used in this~~
5 ~~subdivision, the term "non-business property"~~
6 ~~means personal property that is used by the owner~~
7 ~~of the property for a purpose other than the~~
8 ~~production of income and is not used in~~
9 ~~connection with a business. The term includes~~
10 ~~household furnishings, clothing, pets, lawn~~
11 ~~tools, and lawn equipment. The term does not~~
12 include property other than motor vehicles,
13 mobile homes, aircraft, watercraft, or engines
14 for watercraft."

15 Section 4. Section 1 of this act is effective for
16 taxable years beginning on or after January 1, 1999. The
17 remainder of this act is effective when it becomes law.

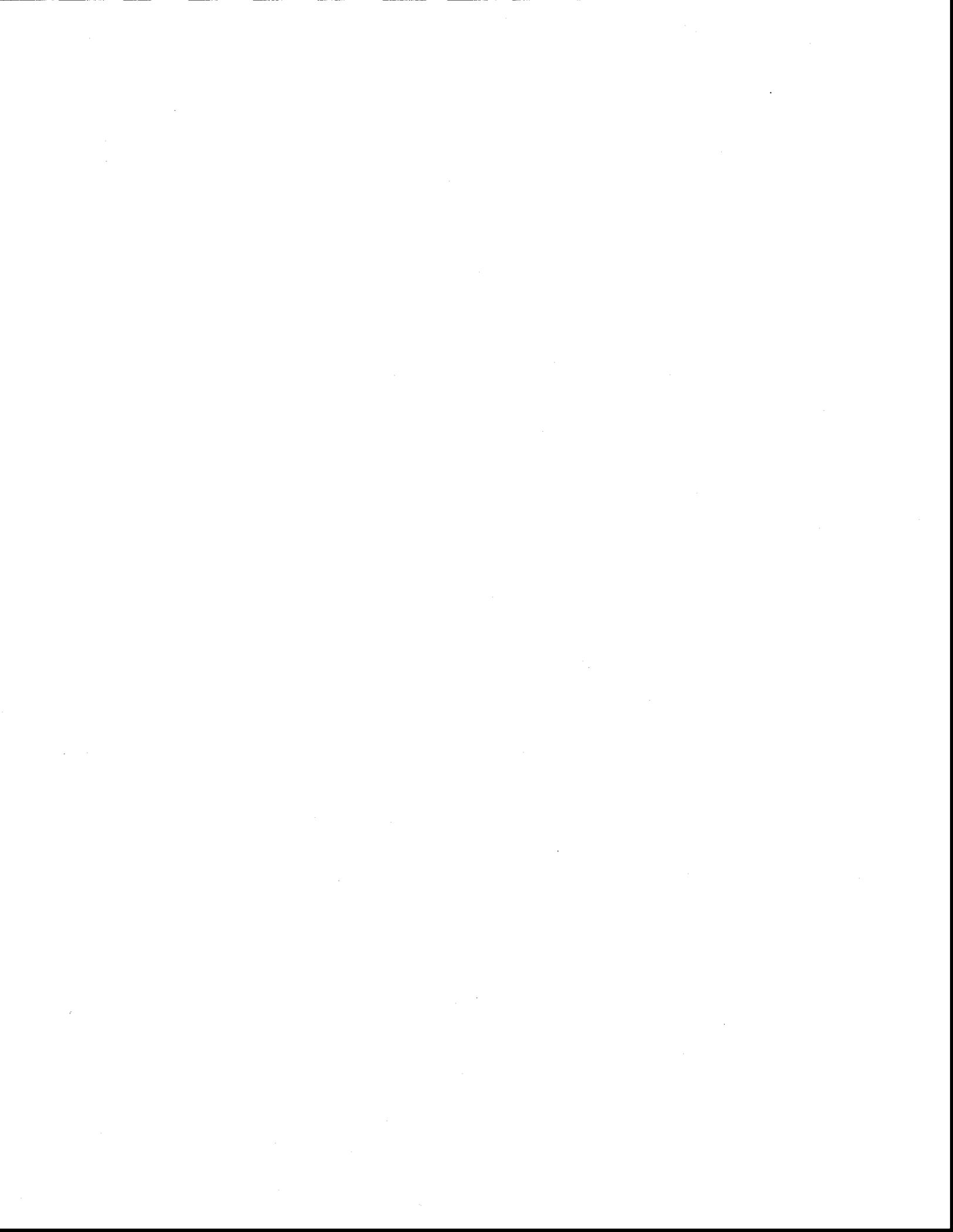


LEGISLATIVE PROPOSAL 8: *Franchise Tax Credit for CIP*

A local property tax is levied upon real and tangible personal property during the period of construction. Many businesses object to a property tax on construction in progress because there is no business or income producing use of the property. A bill was introduced in 1997 to exempt construction in progress from the property tax. However, such an exemption would have a major impact on property tax revenues in many local government jurisdictions.

To avoid a fiscal impact on local tax revenues, the Business Development Committee recommends a franchise tax credit equal to the amount of property tax paid on construction in progress. Construction in progress is the tangible business personal property that is on site but which the taxpayer has not yet begun to depreciate for federal income tax purposes because the property has not been placed in service. The credit would be available to those entities subject to the franchise tax. The franchise tax is levied on corporations, including S corporations, for the privilege of engaging in business. This part of the proposal would become effective January 1, 1999. The most recent cost estimate pegged the annual budgetary impact on the General Fund, beginning in fiscal year 2000-01, at \$38 million. Given the usual budgetary pressures facing the General Assembly, the Committee recognizes that the credit may need to be phased in over a period of time.

Section 1 of the proposal provides the franchise tax credit provision. Section 2 of the proposal defines the term "construction in progress" and makes other conforming and stylistic changes to the definition section. Section 3 makes a conforming change in the definition of "non-business property".



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

LEGISLATIVE PROPOSAL 9

98-RBZ-13.14

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

15:33:19 13-MAY-98

Short Title: Deduction for Net Capital Gains.

(Public)

Sponsors: Representatives Shubert and Cansler.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE THE AMOUNT OF NET CAPITAL GAINS SUBJECT TO STATE
3 INCOME TAX FOR ASSETS ACQUIRED ON OR AFTER JANUARY 1, 1999.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 105-130.5(b) is amended by adding a new
6 subdivision to read:

7 "(17) The amount of income reported as net capital
8 gain under the Code with respect to any
9 capital asset acquired on or after January 1,
10 1999, is reduced by the applicable percentage
11 based on the period the taxpayer held the

12 asset:

13 <u>Held More Than</u>	14 <u>Percentage Reduced</u>
15 <u>One Year</u>	16 <u>10%</u>
17 <u>Two Years</u>	18 <u>20%</u>
19 <u>Three Years</u>	20 <u>30%</u>
21 <u>Four Years</u>	22 <u>40%</u>
<u>Five Years</u>	<u>50%</u>
<u>Six Years</u>	<u>60%</u>
<u>Seven Years</u>	<u>70%</u>
<u>Eight Years</u>	<u>80%</u>
<u>Nine Years</u>	<u>90%</u>

1 Ten Years 100%"
 2 Section 2. G.S. 105-134.6(b) is amended by adding a new
 3 subdivision to read:

4 "(15) The amount of income reported as net capital
 5 gain under the Code with respect to any
 6 capital asset acquired on or after January 1,
 7 1999, is reduced by the applicable percentage
 8 based on the period the taxpayer held the
 9 asset:

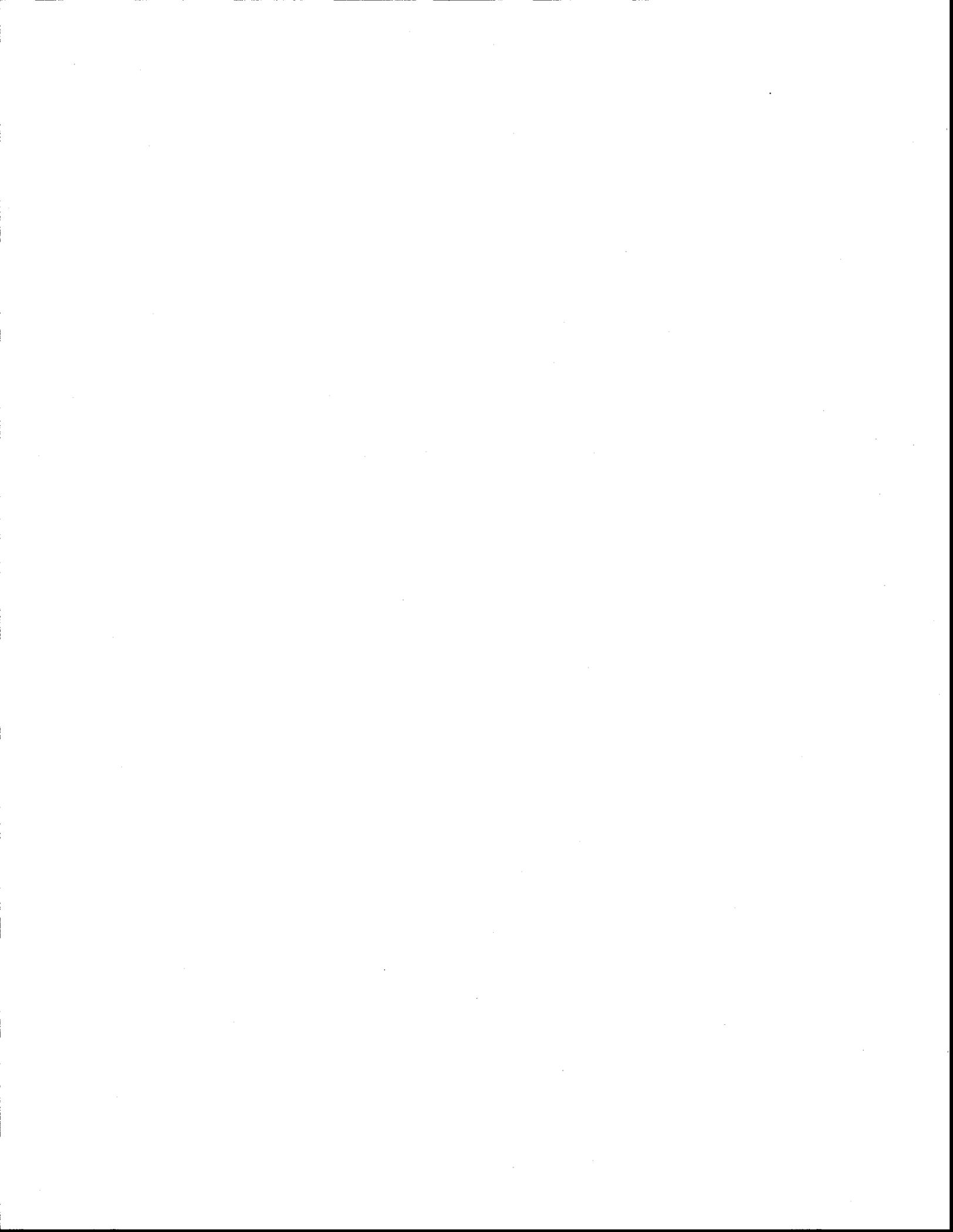
	<u>Held More Than</u>	<u>Percentage Reduced</u>
10	<u>One Year</u>	<u>10%</u>
11	<u>Two Years</u>	<u>20%</u>
12	<u>Three Years</u>	<u>30%</u>
13	<u>Four Years</u>	<u>40%</u>
14	<u>Five Years</u>	<u>50%</u>
15	<u>Six Years</u>	<u>60%</u>
16	<u>Seven Years</u>	<u>70%</u>
17	<u>Eight Years</u>	<u>80%</u>
18	<u>Nine Years</u>	<u>90%</u>
19	<u>Ten Years</u>	<u>100%</u> "

20
 21 Section 3. This act becomes effective for taxable years
 22 beginning on or after January 1, 2000.

LEGISLATIVE PROPOSAL 9:
Deduction for Net Capital Gains

The 1986 federal tax reform act established a maximum capital gains tax rate of 28% for assets held at least 1 year, versus rates of up to 39.6% on other income. Last year, the Tax Relief Act of 1997 lowered the rate around 20% for long-term gains. A review of the tax laws of other states indicates that 2 states offer either an exclusion or reduced rate on capital gains. The North Carolina tax code treats capital gains as ordinary income.

The Business Development Committee recommends an income tax exclusion for capital gains with the exclusion amount based on the holding period of the asset. For each year the asset is held the exclusion would equal 10% of the gain. If an asset is held 10 years, there would be no tax on the gains. The proposal would apply to assets acquired on or after January 1, 1999, in order to encourage new investment. There are no estimates at this time of the impact of the proposal. However, the earliest that the change would affect the General Fund would be fiscal year 2000-01.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

LEGISLATIVE PROPOSAL 10
98-RBZ-28
THIS IS A DRAFT 13-MAY-98 15:37:43

Short Title: Tax Credit for Operating Lease. (Public)

Sponsors: Representatives Owens and Eddins.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND THE WILLIAM S. LEE INVESTMENT TAX CREDIT TO
3 INCLUDE OPERATING LEASES.
4 The General Assembly of North Carolina enacts:
5 Section 1. This act expands the William S. Lee
6 investment tax credit to include certain operating leases.
7 Section 2. This act is effective when it becomes law.

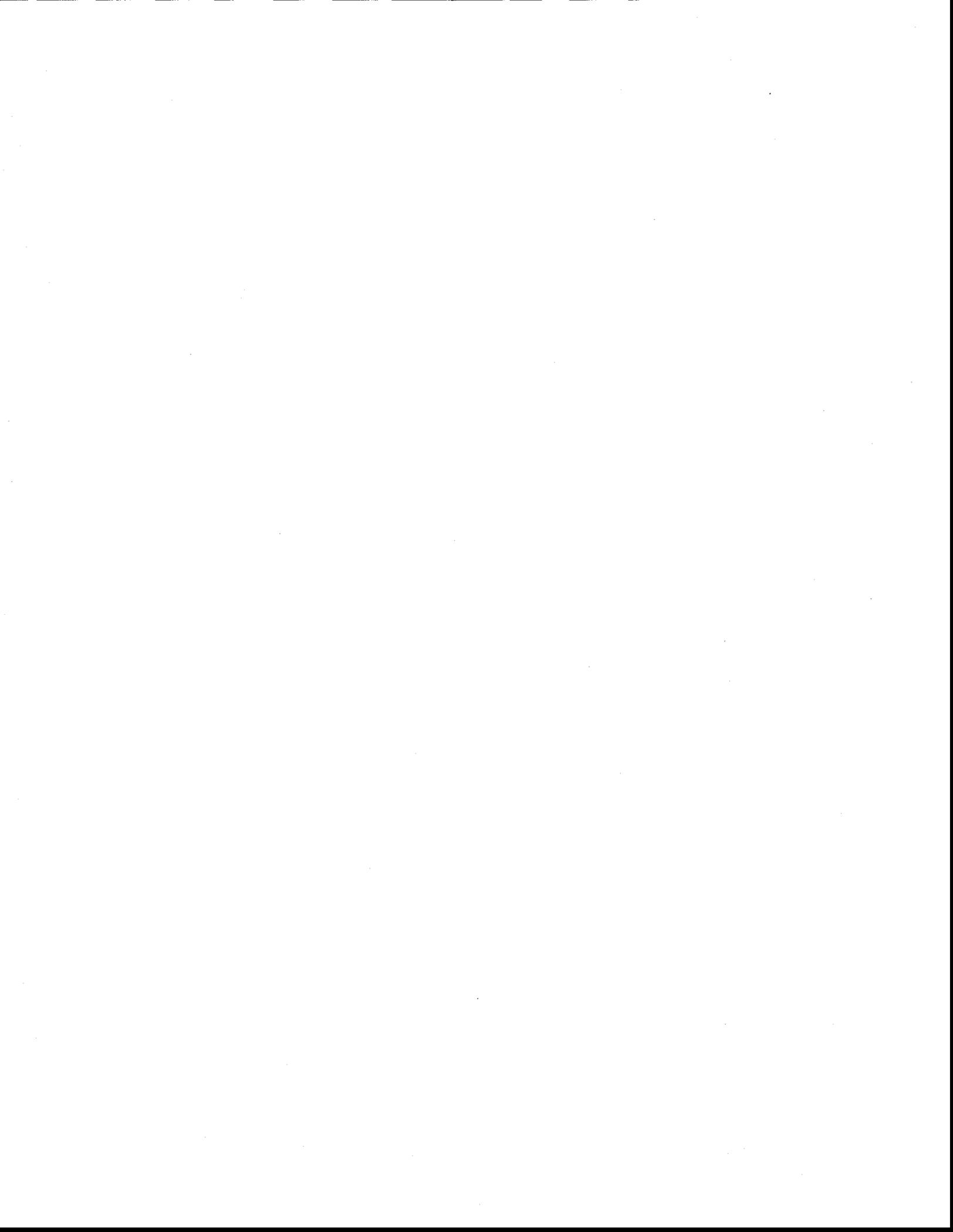


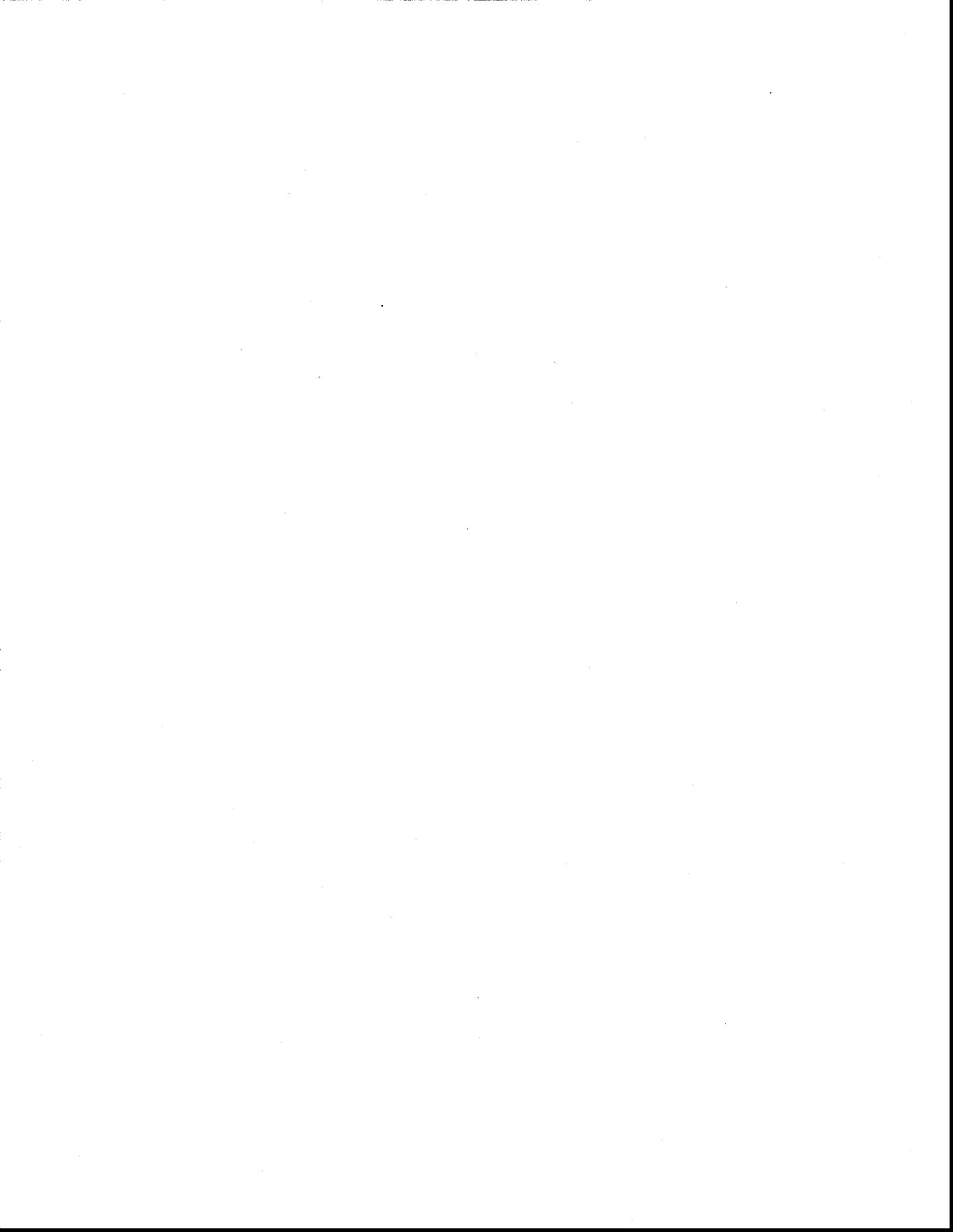
LEGISLATIVE PROPOSAL 10:
Investment Tax Credit for Operating Leases

The 1997 fine-tuning of the Bill Lee Act extended the targeted investment tax credit to personal property acquired through capital leases, where the lessee takes possession at end of lease and thus can depreciate the lease payments for tax purposes. However, the computer industry and many other high-tech sectors make extensive uses of **operating leases**, where the lessor retains property and lease payment is treated as operating expense by lessee. The Business Development Committee recommends that the investment tax credit under the Bill Lee Act be expanded to include operating leases.

Due to the technical complexity of the issue, the Committee did not recommend specific statutory language. The wording can be worked out during the legislative process. The expansion of the credit would cost the State General Fund a maximum of \$3.3 million per year once fully phased-in. The credit would sunset in the same fashion as the original Bill Lee Act credits.

The Committee further recommends, based on the 1997 session changes and the proposed modification of the investment tax credit advocated in this proposal, that the General Assembly consider whether the jobs tax credit under the Bill Lee Act should be extended to companies who lease workers in lieu of hiring additional employees.





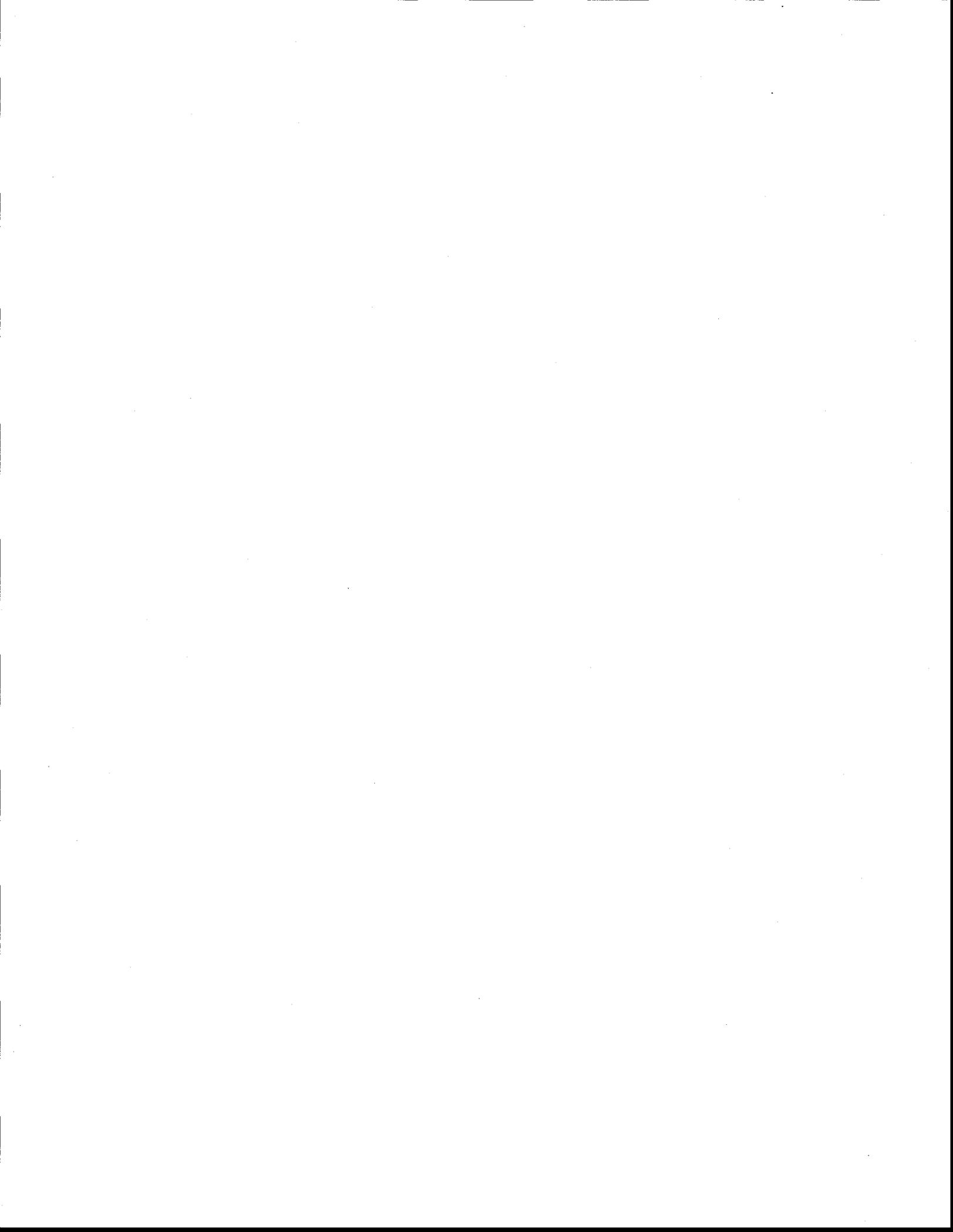
LEGISLATIVE PROPOSAL 11:
Worker's Compensation Tax

During the last decade, sharp rises in workers' compensation tax rates have made it more costly for small employers to hire new employees. The Business Development Committee recommends that an optional system for funding the workers' compensation system based on a medical savings account approach be enacted. Due to the technical complexity of the issue, the Committee did not recommend specific statutory language. The wording can be worked out during the legislative process.



APPENDIX A:

AUTHORIZING LEGISLATION



APPENDIX A

CHAPTER 483
1997 Session Laws

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMISSIONS, TO CONTINUE A COUNCIL, TO DIRECT STATE AGENCIES AND LEGISLATIVE OVERSIGHT COMMITTEES AND COMMISSIONS TO STUDY SPECIFIED ISSUES, AND TO IMPOSE A MORATORIUM ON SERVICE CORPORATION CONVERSIONS.

The General Assembly of North Carolina enacts:

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1997".

PART II.-----LEGISLATIVE RESEARCH COMMISSION

Section 2.1. The Legislative Research Commission may study the topics listed below. When applicable, the bill or resolution that originally proposed the issue or study and the name of the sponsor is listed. Unless otherwise specified, the listed bill or resolution refers to the measure introduced in the 1997 Regular Session of the 1997 General Assembly. The Commission may consider the original bill or resolution in determining the nature, scope, and aspects of the study. ...

(28) Small business development (H.B. 1177 - Shubert)

(29) Venture Capital and business financing (S.B. 956 - Hoyle and Kerr) ..

Section 2.11. Committee Membership. For each Legislative Research Commission committee created during the 1997-98 biennium, the cochairs of the Legislative Research Commission shall appoint the committee membership.

Section 2.12. Reporting Date. For each of the topics the Legislative Research Commission decides to study under this Part or pursuant to G.S. 120- 30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1997 General Assembly, 1998 Regular Session, or the 1999 General Assembly.

Section 2.13. Funding. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

PART XVII.-----EFFECTIVE DATE AND APPLICABILITY

Section 17.1. Except as otherwise specifically provided, this act becomes effective July 1, 1997. If a study is authorized both in this act and the Current Operations Appropriations Act

of 1997, the study shall be implemented in accordance with the Current Operations Appropriations Act of 1997 as ratified.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 11:00 a.m. this 10th day of September, 1997

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1177

Short Title: Small Business Dev. Study Commission. (Public)

Sponsors: Representatives Shubert; Adams, Alexander, Arnold, Baddour, Baker, Beall, Berry, Black, Bonner, Boyd-McIntyre, Braswell, Brawley, Buchanan, Cansler, Capps, Church, Clary, Cole, Crawford, Creech, Culp, Culpepper, Davis, Earle, Eddins, Fox, Goodwin, Gulley, Hall, Hill, R. Hunter, Insko, Ives, Jarrell, Jeffus, Kinney, McComas, McMahan, Mercer, Morris, Mosley, Nesbitt, Nye, Oldham, Owens, Ramsey, Rayfield, Redwine, Reynolds, Rogers, Russell, Saunders, Sherrill, Starnes, Sutton, Tallent, Tolson, Wainwright, Warwick, Weatherly, Wilkins, G. Wilson, Womble, and Yongue.

Referred to: Rules, Calendar and Operations of the House.

April 29, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A LEGISLATIVE STUDY COMMISSION ON SMALL
3 BUSINESS DEVELOPMENT.
4 The General Assembly of North Carolina enacts:
5 Section 1. The Small Business Development Study
6 Commission is established. The purpose of the commission is to
7 improve the coordination of services provided by State agencies
8 to small businesses and to reduce the regulatory impact of
9 government on small businesses.
10 Section 2. Small Business Development Study Commission
11 may:
12 (1) Evaluate the services provided to small business by
13 the various State agencies and determine ways to
14 assure that the needs of small businesses are met
15 in an efficient and effective manner by, in part,

- 1 coordinating the efforts of the State agencies that
2 serve small businesses.
- 3 (2) Evaluate the impact of regulations imposed on small
4 businesses by the State and determine ways to
5 eliminate unnecessary regulations and to minimize
6 the negative impact of other necessary regulations
7 on the businesses.
- 8 (3) Make recommendations to the General Assembly
9 regarding legislative proposals that will
10 facilitate the development of small businesses in
11 the State and assure that the needs of existing
12 businesses are met.
- 13 (4) Conduct any other studies or evaluations the
14 commission considers necessary to effectuate its
15 purpose.

16 Section 3. The commission shall consist of 10 appointed
17 members and five ex officio members as follows:

- 18 (1) Three Senators appointed by the President Pro
19 Tempore of the Senate.
- 20 (2) Two members of the public appointed by the
21 President Pro Tempore of the Senate, one upon the
22 recommendation of the National Federation of
23 Independent Business and one upon the
24 recommendation of the North Carolina Association of
25 Certified Public Accountants.
- 26 (3) Three Representatives appointed by the Speaker of
27 the House of Representatives.
- 28 (4) Two members of the public appointed by the Speaker
29 of the House of Representatives, one upon the
30 recommendation of the National Federation of
31 Independent Business and one upon the
32 recommendation of the North Carolina Association of
33 Certified Public Accountants.
- 34 (5) The Secretary of Revenue or her designee.
- 35 (6) The Commissioner of Insurance or his designee.
- 36 (7) The Secretary of State or her designee.
- 37 (8) The Chair of the Employment Security Commission or
38 his designee.
- 39 (9) The Secretary of Commerce or his designee.

40 Section 4. The President Pro Tempore of the Senate
41 shall designate one Senator as cochair, and the Speaker of the
42 House of Representatives shall designate one Representative as
43 cochair.

1 Section 5. The commission shall meet at least once a
2 quarter and may meet at other times upon the joint call of the
3 cochairs. A majority of the members of the commission shall
4 constitute a quorum for the transaction of business. The
5 affirmative vote of a majority of the members present at meetings
6 of the commission shall be necessary for action to be taken by
7 the commission.

8 Section 6. The commission may make an interim report to
9 the 1998 Regular Session of the 1997 General Assembly. The
10 commission shall submit a final report of its findings and
11 recommendations to the General Assembly on or before the first
12 day of the 1999 Session of the General Assembly by filing the
13 report with the President Pro Tempore of the Senate and the
14 Speaker of the House of Representatives. Upon filing its final
15 report, the commission shall terminate.

16 Section 7. The commission, while in the discharge of
17 official duties, may exercise all the powers provided for under
18 G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4. The
19 commission may meet in the State Legislative Building or the
20 Legislative Office Building.

21 Section 8. Members of the commission shall receive per
22 diem, subsistence, and travel allowances in accordance with G.S.
23 120-3.1, 138-5, or 138-6, as appropriate.

24 Section 9. The commission may contract for
25 professional, clerical, or consultant services as provided by
26 G.S. 120-32.02. The Legislative Services Commission, through the
27 Legislative Administrative Officer, shall assign professional
28 staff to assist in the work of the commission. The House of
29 Representatives' and the Senate's Supervisors of Clerks shall
30 assign clerical staff to the commission, upon the direction of
31 the Legislative Services Commission. The expenses relating to
32 clerical employees shall be borne by the commission.

33 Section 10. When a vacancy occurs in the appointed
34 membership of the commission the vacancy shall be filled by the
35 same appointing officer who made the initial appointment.

36 Section 11. All State departments and agencies and
37 local governments and their subdivisions shall, upon request,
38 furnish the commission with any information in their possession
39 or available to them.

40 Section 12. There is appropriated from the General Fund
41 to the General Assembly the sum of twenty thousand dollars
42 (\$20,000) for the 1997-98 fiscal year and the sum of twenty
43 thousand dollars (\$20,000) for the 1998-99 fiscal year for the
44 expenses of the Small Business Development Study Commission.

1 Section 13. This act becomes effective July 1, 1997.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 956*

Short Title: Venture Capital Investment Incentive. (Public)

Sponsors: Senators Hoyle, Cooper, and Odom.

Referred to: Rules and Operations of the Senate.

April 17, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO STIMULATE A SUBSTANTIAL INCREASE IN VENTURE CAPITAL
3 INVESTMENTS IN NORTH CAROLINA BY ALLOWING AN INSURANCE PREMIUMS
4 TAX CREDIT FOR THESE INVESTMENTS.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 53A-35 through G.S. 53A-37 are
7 designated Part 1 of Article 3 of Chapter 53A of the General
8 Statutes, entitled "General Provisions" and the remainder of
9 Article 3 of Chapter 53A of the General Statutes is designated
10 Part 2, entitled "North Carolina Enterprise Corporations".
11 Section 2. Article 3 of Chapter 53A of the General
12 Statutes, as amended by this act, is further amended by adding a
13 new Part to read:
14 "Part 3. Certified North Carolina Capital Companies.
15 "§ 53A-70. Requirements for certification of a certified North
16 Carolina capital company.
17 (a) Initial Certification. -- In order to be initially
18 certified as a certified North Carolina capital company, a
19 company must satisfy the following requirements:
20 (1) It is a partnership, corporation, trust, or limited
21 liability company, whether for-profit or nonprofit,
22 whose primary business activity is the investment
23 of cash in approved business ventures.

- 1 (2) Its cash, marketable securities, and other liquid
2 assets equal at least five hundred thousand dollars
3 (\$500,000).
- 4 (3) Its officers and its board of directors, partners,
5 trustees, or managers are thoroughly acquainted
6 with the requirements of this Part.
- 7 (4) No insurance company or affiliate of an insurance
8 company is a managing general partner of the
9 certified North Carolina capital company or
10 controls the direction of investments of the
11 certified North Carolina capital company. This
12 subdivision does not preclude an insurance company
13 or any other party from exercising its legal rights
14 and remedies, which may include interim management
15 of a certified North Carolina capital company, in
16 the event that a certified North Carolina capital
17 company is in default of its statutory obligations
18 or its contractual obligations to the insurance
19 company or other party.
- 20 (b) Continuing Certification. -- To remain certified as a
21 certified North Carolina capital company, the company must
22 satisfy the following requirements:
- 23 (1) Within three years after the date it was initially
24 certified, at least thirty percent (30%) of the
25 certified capital invested in the company must be
26 placed in approved investments.
- 27 (2) Within five years after the date it was initially
28 certified, at least fifty percent (50%) of the
29 certified capital invested in the company must be
30 placed in approved investments.
- 31 (3) It shall not invest in a single approved business
32 venture an amount that is more than fifteen percent
33 (15%) of the total certified capital under the
34 company's management at the time of the investment.
- 35 (4) No insurance company or affiliate of an insurance
36 company is a managing general partner of the
37 certified North Carolina capital company or
38 controls the direction of investments of the
39 certified North Carolina capital company. This
40 subdivision does not preclude an insurance company
41 or any other party from exercising its legal rights
42 and remedies, which may include interim management
43 of a certified North Carolina capital company, in
44 the event that a certified North Carolina capital

1 company is in default of its statutory obligations
2 or its contractual obligations to the insurance
3 company or other party.

4 (c) Permanent Certification. -- A certified North Carolina
5 capital company that has satisfied the requirements of G.S.
6 53A-70(b) and has invested all of its certified capital in
7 approved investments, as demonstrated by its most recent
8 financial statement and report filed in accordance with G.S.
9 53A-71, qualifies for permanent certification and is no longer
10 required to obtain continuing certification as required in G.S.
11 53A-71. A certified North Carolina capital company that has
12 qualified for permanent certification must continue to submit
13 annual financial statements and reports under G.S. 53A-71 for
14 three years after it qualifies for permanent certification.

15 "§ 53A-71. Procedure for initial and continuing certification;
16 reports.

17 (a) Initial Certification. -- In order to be initially
18 certified as a certified North Carolina capital company, a
19 company must file an application with the Department and pay the
20 initial certification fee. The application shall include any
21 information and supporting documents required by the Secretary of
22 State to determine whether the company qualifies for initial
23 certification. Within 60 days after an application is filed, the
24 Department shall determine whether the applicant qualifies for
25 initial certification and shall either issue the certification or
26 shall refuse the certification and notify the applicant in detail
27 of the grounds for the refusal, including suggestions for the
28 removal of those grounds.

29 The Department shall review and approve or reject applications
30 in the order submitted. If more than one application is received
31 by the Department on the same day, all applications received on
32 that day shall be reviewed and approved simultaneously, except in
33 the case of incomplete applications or applications for which
34 additional information is requested by the Department and is not
35 supplied by the applicant within the allowable time limits
36 established by the Department. If more than one applicant is
37 certified on the same day, the Department shall ensure that all
38 applicants certified on that day are notified of certification at
39 the same time.

40 (b) Continuing Certification. -- A certified North Carolina
41 capital company that has not qualified for permanent
42 certification must, in order to remain certified, submit an
43 annual application for continued certification and pay the annual
44 review fee. The request shall include any information and

1 supporting documents required by the Secretary of State to
2 determine whether the company qualifies for continued
3 certification.

4 The Department shall conduct an annual review of each certified
5 North Carolina capital company that has not qualified for
6 permanent certification to determine if the company is in
7 compliance with the requirements for initial and continuing
8 certification and to ensure that the company's investments are in
9 compliance with this Part. The review shall be based upon the
10 company's financial statements and other information submitted in
11 accordance with this section.

12 (c) Application Forms; Fees. -- Applications for initial and
13 continuing certification under this section shall be in the form
14 required by the Secretary of State. The Secretary of State shall
15 prepare blank forms for the applications. Each application shall
16 be signed by the owners, a manager, or an executive officer of
17 the company. There shall be annexed to the application the
18 affirmation of the person making the application in the following
19 form: 'Under penalties prescribed by law, I certify and affirm
20 that to the best of my knowledge and belief this application is
21 true and complete.' A person who submits a false application is
22 guilty of a Class 1 misdemeanor.

23 The Secretary of State shall charge an applicant a fee of one
24 thousand dollars (\$1,000) for initial certification as a
25 certified North Carolina capital company and a fee of one
26 thousand dollars (\$1,000) for annual review for continuing
27 certification as a certified North Carolina capital company.
28 Fees collected under this section shall be applied to the cost of
29 administering this Part.

30 (d) Periodic Reports. -- Each certified North Carolina capital
31 company shall provide the Department an annual audited financial
32 statement and report that includes an opinion of an independent
33 certified public accountant. The audit shall address the methods
34 of operation and conduct of the business of the company to
35 determine whether the company has complied with this Part and
36 whether the cash invested in the company has been invested as
37 required by this Part. The audit shall also determine whether
38 each business in which the company has invested is an approved
39 business venture as defined in this Article. In addition, each
40 certified North Carolina capital company shall provide the
41 Department a midyear, unaudited update of its annual financial
42 statement and report. The reports and updates shall be in the
43 form prescribed by the Secretary of State and shall include any
44 information required by the Secretary of State about the company

1 and about the approved business ventures in which it has
2 invested.

3 A certified North Carolina capital company that has not
4 qualified for permanent certification shall submit the annual
5 financial statement and report and the midyear update on the due
6 dates specified by the Department. A certified North Carolina
7 capital company that has qualified for permanent certification is
8 no longer required to submit midyear updates but shall continue
9 to submit the annual financial statement and report on the due
10 dates specified by the Department for three years after the
11 company qualifies for permanent certification. Thereafter, no
12 additional financial statements and reports are required under
13 this subsection.

14 "§ 53A-72. Distributions; maximum interest rate.

15 (a) Distributions. -- A certified North Carolina capital
16 company may make qualified distributions at any time. A
17 certified North Carolina capital company may, without
18 restriction, make distributions and payments to debt holders with
19 respect to debt owed them by the company, but no distributions or
20 payments may be made to an equity holder, or any of its
21 affiliates, that is entitled to a credit under Article 8C of
22 Chapter 105 of the General Statutes until the certified North
23 Carolina capital company has qualified for permanent
24 certification. A certified North Carolina capital company may
25 make other distributions only after it has qualified for
26 permanent certification.

27 (b) Maximum Interest Rate. -- A certified North Carolina
28 capital company shall not charge interest on a senior, secured
29 loan at an annual rate that exceeds the prime rate plus three
30 percent (3%).

31 "§ 53A-73. Tax credits.

32 (a) Credit Allowed. -- A person who invests cash in a certified
33 North Carolina capital company is entitled to a tax credit as
34 provided in Article 8C of Chapter 105 of the General Statutes
35 but, notwithstanding the provisions of Division V of Article 4 of
36 Chapter 105 of the General Statutes, is not allowed a tax credit
37 under that Division for the investment. In addition,
38 notwithstanding the provisions of Division V of Article 4 of
39 Chapter 105 of the General Statutes, a certified North Carolina
40 capital company is not allowed a tax credit under that Division
41 for its investments.

42 (b) Allocation of Credits. -- The Department shall allocate the
43 total amount of credit allowed pursuant to G.S. 105-228.10E among
44 taxpayers as provided in this section. A certified North

1 Carolina capital company may apply for allocation of credits on
2 behalf of its investors no earlier than the first business day
3 after it is certified. The application shall be in the form
4 required by the Secretary of State and shall provide all of the
5 following:

- 6 (1) The name of each investor.
- 7 (2) The amount each investor has committed to invest in
8 the company.
- 9 (3) Proof that the investor has committed to invest the
10 funds subject to allocation of the applicable
11 credits pursuant to this section.
- 12 (4) The maximum amount of credit the investment would
13 entitle the investor to under G.S. 105-228.10C for
14 the current taxable year and the following nine
15 taxable years.
- 16 (5) Any other information required by the Secretary of
17 State.

18 Upon receipt of a completed application, the Department shall
19 determine the amount of available credit not yet allocated for
20 each taxable year specified in the application. Within seven
21 business days after receipt of the application, the Department
22 shall allocate to the North Carolina capital company, on behalf
23 of the investors named in the application, the total amount of
24 credit applied for in the application, but only to the extent of
25 available credit not yet allocated for each taxable year. The
26 Department's allocations of credit under this section shall be in
27 writing.

28 The Department shall allocate available credit to applicants in
29 the order the applications are received. If more than one
30 certified North Carolina capital company submits a completed
31 application on the same day, the Department shall make the
32 allocations to those applicants simultaneously. If the amount of
33 credit applied for in the simultaneous applications exceeds the
34 amount of available credit not yet allocated for a taxable year,
35 the Department shall allocate the available credit for that
36 taxable year among the simultaneous applicants on a pro rata
37 basis in proportion to the amount of credit applied for by each.

38 "§ 53A-74. Decertification of certified North Carolina capital
39 company.

40 (a) Grounds for Decertification. -- Any material violation of
41 this Part shall be grounds for decertification under this
42 section.

43 (b) Procedure for Decertification. -- If the Department
44 determines that a certified North Carolina capital company is not

1 in compliance with any requirement for continuing certification,
2 it shall, by written notice, inform the officers of the company
3 and the board of directors, manager, trustees, or general
4 partners that the company will be decertified in 120 days after
5 the date the notice is mailed unless the company corrects the
6 deficiencies to bring itself in compliance with the requirements
7 for certification. At the end of the 120-day grace period, if
8 the certified North Carolina capital company is still not in
9 compliance, the Department shall decertify the company and send a
10 notice of decertification to the company and to the Department of
11 Revenue and the Department of Insurance.

12 (c) Effect of Decertification. -- If a certified North
13 Carolina capital company is decertified, no further tax credits
14 for an investment in the company are allowed pursuant to G.S.
15 105-228.10D.

16 "§ 53A-75. Rules; report.

17 The Secretary of State may adopt rules to implement this Part.
18 The Secretary of State shall report to the Legislative Research
19 Commission by October 1 of each odd-numbered year and by February
20 1 of each even-numbered year the number of certified North
21 Carolina capital companies certified under this Part, the date
22 each company was created, the amount and percentage of certified
23 capital invested by each company, the amount of tax credits
24 allocated to each company, and any other information requested by
25 the Legislative Research Commission."

26 Section 3. G.S. 53A-37 reads as rewritten:

27 "§ 53A-37. Definitions.

28 The following definitions apply in this Article:

29 (1) Affiliate of a certified North Carolina capital
30 company or insurance company. -- Any of the
31 following:

32 a. A person who directly or indirectly
33 beneficially owns (whether through rights,
34 options, convertible interests, or otherwise),
35 controls, or holds power to vote ten percent
36 (10%) or more of the outstanding voting
37 securities or other ownership interests of the
38 company.

39 b. A person ten percent (10%) or more of whose
40 outstanding voting securities or other
41 ownership interests are, directly or
42 indirectly, beneficially owned (whether
43 through rights, options, convertible

- 1 interests, or otherwise), controlled or held
2 with power to vote by the company.
- 3 c. A person who directly or indirectly controls,
4 is controlled by, or is under common control
5 with the company.
- 6 d. A partnership in which the company is a
7 general partner.
- 8 e. A person who is an officer, a director, or an
9 agent of the company, or is an immediate
10 family member of an officer, a director, or an
11 agent of the company.
- 12 (2) Approved business venture. -- A business that
13 satisfies all of the following conditions as of the
14 time of a certified North Carolina capital
15 company's first investment in the business:
- 16 a. It is headquartered in this State, it operates
17 primarily in this State or does substantially
18 all of its production in this State, and it
19 employs a majority of its employees in this
20 State.
- 21 b. It has no more than 300 employees and, during
22 its most recent fiscal year, it had gross
23 revenues of no more than seven million dollars
24 (\$7,000,000) on a consolidated basis as
25 determined in accordance with generally
26 accepted accounting principles.
- 27 c. It is not a subsidiary of another corporation.
- 28 d. It satisfies the conditions established in
29 G.S. 105-163.013(b)(3) through (6).
- 30 (3) Approved investment. -- The investment of cash by a
31 certified North Carolina capital company in such a
32 manner as to acquire capital in a business that, at
33 the time of the first investment in the business by
34 a certified North Carolina capital company, was an
35 approved business venture. The capital acquired
36 may be any debt, equity, or hybrid security,
37 whether secured or unsecured, of any nature,
38 including a debt instrument or security that has
39 the characteristics of debt but provides for
40 conversion into equity or equity participation
41 instruments such as options or warrants.
- 42 (4) Business. -- A corporation, a partnership, an
43 association, a limited liability company, or a sole
44 proprietorship operated for profit.

- 1 (5) Certified capital. -- The cash invested in a
2 certified North Carolina capital company, either in
3 the form of equity or debt capital, during the
4 365-day period after the company has been initially
5 certified as provided in Part 3 of this Article.
6 If the certified capital is in the form of debt
7 capital, the debt instrument issued by the
8 certified North Carolina capital company, at par
9 value or a premium, must have an original maturity
10 date of at least five years after the date of
11 issuance and a repayment schedule that is no faster
12 than a level principal amortization.
- 13 (6) Certified North Carolina capital company. -- A
14 partnership, corporation, trust, or limited
15 liability company whose primary business activity
16 is the investment of cash in approved business
17 ventures and that is certified by the Secretary of
18 State as provided in Part 3 of this Article.
- 19 (7) Department. -- The Department of the Secretary of
20 State.
- 21 +2) (8) Equity security. -- Common stock, preferred stock,
22 an interest in a partnership, subordinated debt, or
23 a warrant that is convertible into, or entitles the
24 holder to receive upon its exercise, common stock,
25 preferred stock, or an interest in a partnership.
- 26 (9) Insurance company. -- Defined in G.S. 58-1-5.
- 27 +3) (10) Mezzanine finance. -- An investment in the equity
28 securities or subordinated debt of a Qualified
29 North Carolina Business.
- 30 (11) Person. -- An individual, a corporation, a
31 partnership, an association, a trust, a limited
32 liability company, or another legal entity.
- 33 (12) Qualified distribution. -- A distribution or
34 payment to equity owners of a certified North
35 Carolina capital company or to their shareholders,
36 officers, directors, partners, members, managers,
37 employees, or affiliates, in connection with any of
38 the following:
- 39 a. Reasonable costs and expenses of forming,
40 syndicating, managing, and operating the
41 company, including management fees.
- 42 b. An increase in State or federal taxes,
43 penalties, or interest of the company's equity
44 owners to the extent the increase relates to

- 1 the ownership, management, or operation of the
 2 company.
- 3 (4) (13) Qualified North Carolina Business. -- A business
 4 whose headquarters and principal business
 5 operations are located in North Carolina and which,
 6 together with its affiliates on a consolidated
 7 basis, had gross income during the immediately
 8 preceding fiscal year, determined in accordance
 9 with generally accepted accounting principles
 10 without taking into account extraordinary items, of
 11 less than forty million dollars (\$40,000,000).
- 12 (5) (14) Rural areas. -- Any county in North Carolina which
 13 does not include within its boundaries a city, as
 14 defined by G.S. 160A-1(2), with a population
 15 greater than one percent (1%) of the population of
 16 North Carolina.
- 17 (6) (15) Security. -- A security as defined in G.S. 78A-
 18 2(11).
- 19 (7) (16) Subordinated debt. -- Indebtedness that is or will
 20 be subordinated to other indebtedness of the
 21 issuer. Subordinated debt may be convertible into
 22 common stock, preferred stock, or an interest in a
 23 partnership.
- 24 (8) (17) Traditional ~~Financial Institutions.~~ financial
 25 institutions. -- Corporations or associations
 26 chartered under ~~Chapters~~ Chapter 53 or 54B of the
 27 General Statutes."
- 28 Section 4. Chapter 105 of the General Statutes is
 29 amended by adding a new Article to read:
- 30 "ARTICLE 8C.
 31 "Premiums Tax Credit for Investments in
 32 North Carolina Small Businesses.
- 33 "§ 105-228.10A. Purpose.
 34 The purpose of this Article is to stimulate a substantial
 35 increase in venture capital investments in North Carolina by
 36 providing an incentive for insurance companies to invest in
 37 certified North Carolina capital companies.
- 38 "§ 105-228.10B. Definitions.
 39 The following definitions apply in this Article:
- 40 (1) Certified capital. -- Defined in G.S. 53A-37.
 41 (2) Certified North Carolina capital company. -- A
 42 certified North Carolina capital company created
 43 under Article 3 of Chapter 53A of the General
 44 Statutes.

1 "§ 105-228.10C. Premiums tax credit for investments.

2 (a) Credit. -- A person who invests certified capital in a
3 certified North Carolina capital company is allowed against the
4 gross premiums tax imposed by G.S. 105-228.5 and G.S. 105-228.8 a
5 credit equal to the amount of certified capital invested by the
6 taxpayer during the taxable year, subject to the limitations
7 provided in this Article. To claim the credit allowed by this
8 section, the taxpayer must provide the Secretary a copy of the
9 certified North Carolina capital company's application for
10 allocation of credit under G.S. 53A-73, a copy of the Secretary
11 of State's written allocation of credit under G.S. 53A-73, and
12 any other supporting documentation the Secretary requires.

13 (b) Limitations. -- The taxpayer may not take the entire
14 credit for the taxable year the investment is made, but may take
15 up to ten percent (10%) of the aggregate credit allowed under
16 this section for that taxable year and for each succeeding
17 taxable year until the entire credit has been used. The amount
18 of credit taken may not exceed the taxpayer's gross premiums tax
19 liability for a taxable year reduced by the sum of all credits
20 allowable except payments of tax by or on behalf of the taxpayer.
21 Subject to the ten percent (10%) limitation, any unused portion
22 of the credit may be carried forward to the five succeeding
23 taxable years.

24 (c) Transfer of Credit. -- A taxpayer may transfer a credit
25 allowed under this section to another taxpayer. The taxpayer
26 must apply for the approval of the Commissioner of Insurance
27 before transferring the credit. The application shall be in the
28 form prescribed by the Commissioner. The application shall
29 identify the proposed transferor and transferee, state the
30 transferor's tax credit balance before and after the proposed
31 transfer, state the amount of the credit to be transferred and
32 the proposed date of the transfer, and include any other
33 information the Commissioner requires regarding the proposed
34 transfer.

35 The Commissioner of Insurance shall approve the proposed
36 transfer if the application is accurate and complete and the
37 Commissioner determines that the proposed transfer will not have
38 an adverse effect on either taxpayer or their policyholders or
39 shareholders. Within 60 days after receiving an application, the
40 Commissioner shall notify the applicant that the proposed
41 transfer has been approved or disapproved.

42 The Commissioner of Insurance shall maintain records and
43 monitor all transferred credits to ensure that transfers do not
44 result in multiple parties claiming the same credit. The

1 Commissioner shall provide the Secretary complete records of all
2 transferred credits.

3 "§ 105-228.10D. Effect of decertification.

4 If a certified North Carolina capital company is decertified
5 under G.S. 53A-74, no tax credit or carryforward of a tax credit
6 for an investment in the company is allowed under this Article
7 for a taxpayer's taxable year beginning in the calendar year the
8 decertification occurred or for subsequent taxable years.
9 Decertification of a certified North Carolina capital company
10 does not affect a tax credit allowed under this Article for a
11 taxpayer's taxable year that began before the calendar year in
12 which the decertification occurred.

13 "§ 105-228.10E. Annual ceiling; cap.

14 (a) Annual Ceiling. -- The total amount of tax credits that may
15 be taken by all taxpayers under this Article in a taxable year
16 may not exceed fifteen million dollars (\$15,000,000). This
17 amount shall be allocated among taxpayers for each taxable year
18 as provided in G.S. 53A-73.

19 (b) Cap. -- The amount of credit allowed a taxpayer under this
20 Article for a taxable year may not exceed ten percent (10%) of
21 the annual ceiling for that year."

22 Section 5. G.S. 105-228.8(e) reads as rewritten:

23 "(e) This section shall not apply to special purpose
24 obligations or assessments based on premiums imposed in
25 connection with particular kinds of insurance, to the special
26 purpose regulatory charge imposed under G.S. 58-6-25, or to
27 dedicated special purpose taxes based on premiums. For purposes
28 of this section, seventy-five percent (75%) of the one and
29 thirty-three hundredths percent (1.33%) tax on amounts collected
30 on contracts of insurance applicable to fire and lightning
31 coverage shall not be a special purpose obligation or assessment
32 or a dedicated special purpose tax within the meaning of this
33 subsection. The credit allowed by G.S. 105-228.10C shall not be
34 considered in determining the amount of premium taxes imposed by
35 this State."

36 Section 6. G.S. 58-6-25(a) reads as rewritten:

37 "(a) Charge Levied. -- There is levied on each insurance
38 company an annual charge for the purposes stated in subsection
39 (d) of this section. As used in this section, the term 'insurance
40 company' means a company that pays the gross premiums tax levied
41 in G.S. 105-228.5 and G.S. 105-228.8, except that the term does
42 not include a hospital, medical, or dental service corporation
43 regulated under Articles 65 and 66 of this Chapter. The term
44 'insurance company' does not include a company regulated under

1 Article 67 of this Chapter. The charge levied in this section is
2 in addition to all other fees and taxes. The charge shall be at a
3 percentage rate of the company's premium tax liability for the
4 taxable year. In determining an insurance company's premium tax
5 liability for a taxable year, the following shall be disregarded:

6 (1) The additional taxes imposed by G.S. 105-228.8 and
7 the 105-228.8.

8 (2) The additional local fire and lightning tax imposed
9 by G.S. 105-228.5(d)(4) shall be disregarded.
10 105-228.5(d)(4).

11 (3) The credit allowed by G.S. 105-228.10C."

12 Section 7. The title of Chapter 53A of the General
13 Statutes reads as rewritten:

14 "Chapter 53A.

15 "Business Development Corporations and North
16 Carolina Capital Resource Corporations, and Access to Capital."

17 Section 8. The title of Article 3 of Chapter 53A of the
18 General Statutes reads as rewritten:

19 "ARTICLE 3.

20 "North Carolina Enterprise Corporations, Corporations and
21 Certified North Carolina Capital Companies."

22 Section 9. G.S. 53A-35 and G.S. 53A-47 are repealed.

23 Section 10. G.S. 53A-36 reads as rewritten:

24 "§ 53A-36. Legislative findings and purpose.

25 (a) The General Assembly finds ~~and declares~~ that there exists
26 in ~~the State of~~ North Carolina a serious shortage of mezzanine
27 finance capital and credit available for investment in rural
28 areas, areas and other areas in the State. This shortage of
29 mezzanine finance capital and credit is severe throughout ~~the~~
30 ~~rural areas of~~ the State, has persisted for a number of years,
31 and constitutes a grave threat to the welfare and prosperity of
32 all residents of the State. The lack of access to capital
33 prevents North Carolina businesses from creating jobs that would
34 otherwise enhance the economy of the State and provide
35 livelihoods for North Carolina citizens.

36 (b) The General Assembly finds ~~and declares further~~ that
37 private enterprise and existing federal and State governmental
38 programs have not adequately alleviated the severe shortage of
39 mezzanine finance capital and credit available for investments in
40 ~~rural areas in the~~ this State.

41 (c) The General Assembly finds ~~and declares~~ that it is a
42 matter of grave public necessity that North Carolina Enterprise
43 Corporations be authorized to be created and ~~to be~~ empowered to
44 alleviate these severe shortages of mezzanine finance capital and

1 credit for investment in rural areas of the State. North
2 Carolina Enterprise Corporations shall help eliminate barriers to
3 rural economic development by providing mezzanine finance capital
4 and credit, and other types of financing as appropriate, to
5 businesses in rural areas that have been unable to obtain
6 sufficient financing through traditional financial institutions.

7 (d) The General Assembly finds that it is a matter of grave
8 public necessity that certified North Carolina capital companies
9 be authorized to be created as venture capital companies whose
10 primary business activity is the investment of cash in small
11 North Carolina business ventures that are in need of capital for
12 survival, expansion, new product development, or similar
13 purposes."

14 Section 11. G.S. 53A-38(a) reads as rewritten:

15 "(a) One or more persons, a majority of whom are residents of
16 this State, may, by filing a certificate of incorporation as
17 provided in subsection (b), incorporate a North Carolina
18 Enterprise Corporation under the provisions of this ~~Article~~
19 Part."

20 Section 12. G.S. 53A-41 reads as rewritten:

21 "§ 53A-41. Governing law.

22 Except as otherwise provided in this ~~Article~~, Part, a North
23 Carolina Enterprise Corporation shall be governed by Chapter 55
24 of the General Statutes."

25 Section 13. G.S. 53A-42 reads as rewritten:

26 "§ 53A-42. Powers.

27 A North Carolina Enterprise Corporation created under this
28 ~~Article~~ Part shall have all the powers conferred on business
29 corporations by Chapter 55 of the General Statutes."

30 Section 14. Sections 4, 5, and 6 of this act and G.S.
31 53A-73, as enacted by Section 2 of this act, become effective for
32 taxable years beginning on or after January 1, 1997, and apply to
33 investments made on or after that date. The remainder of this
34 act is effective when this act becomes law. An application for
35 initial certification as a North Carolina capital company
36 pursuant to G.S. 53A-71 may not be submitted until the first
37 Monday that falls at least 45 days after this act becomes law.
38 G.S. 53A-73 and Article 8C of Chapter 105 of the General
39 Statutes, as enacted by this act, are repealed effective for
40 investments made on or after January 1, 2000.

APPENDIX B:

**MEMBERSHIP OF THE LRC COMMITTEE
ON BUSINESS DEVELOPMENT**



**LEGISLATIVE RESEARCH COMMISSION
BUSINESS DEVELOPMENT COMMITTEE
1997-1999**

Pro Tem's Appointments

Sen. David W. Hoyle, Cochair
PO Box 2494
Gastonia, NC 28053
(704) 867-0822

Mr. Mark Bernstein
Parker, Poe, Adams & Bernstein
2500 Charlotte Plaza
Charlotte, NC 28244

Mr. John Ciannamea
PO Box 13169
Research Triangle Park, NC 27709

Mr. Scott Daugherty
333 Fayetteville Street, Suite 1150
Raleigh, NC 27601

Sen. Luther H. Jordan, Jr.
PO Box 930
Wilmington, NC 28402
(910) 763-2441

Mr. Johnny K. Long
535 North Broad Street
Gastonia, NC 28054

Sen. Robert L. Martin
PO Box 387
Bethel, NC 27812
(919) 825-4361

Speaker's Appointments

Rep. Fern H. Shubert, Cochair
106 East Main Street
Marshville, NC 28103
(704) 624-2720

Rep. C. Robert Brawley
PO Box 1322
Mooresville, NC 28115
(704) 664-1502

Rep. Lanier M. Cansler
14 Laurel Summit
Asheville, NC 28803
(704) 298-8514

Rep. Rick Eddins
1504 Stratlen Court
Raleigh, NC 27615
(919) 554-1994

Rep. Stanley H. Fox
107 Bank Street
Oxford, NC 27565
(919) 693-6449

Rep. Howard J. Hunter, Jr.
PO Box 506
Murfreesboro, NC 27855
(919) 398-5630

Rep. Mia Morris
105 Pigeon House Court
Fayetteville, NC 28311
(910) 630-0085

Sen. J. Mark McDaniel
2260 Ashley Lake Drive
Pfafftown, NC 27040
(910) 945-4272
Sen. Beverly Perdue
PO Box 991
New Bern, NC 28563
(919) 633-2667

Sen. Eric M. Reeves
PO Box 510
Raleigh, NC 27602
(919) 821-4334

LRC Member

Rep. Gene McCombs
PO Box 132
Faith, NC 28041
(704) 279-2128

Staff:

Cindy Avrette
Research Division
(919) 733-2578

David Crotts
Fiscal Research Division
(919) 733-4910

Rep. William C. Owens, Jr.
113 Hunters Trail East
Elizabeth City, NC 27909
(919) 335-0167
Rep. P. Wayne Sexton, Sr.
123 Irving Road
Stoneville, NC 27048
(910) 627-1418

Rep. Joe P. Tolson
PO Drawer 85
Pinetops, NC 27864
(919) 827-2266

Clerk:

Dawn Ellis
(919) 733-5771

APPENDIX C:

LIST OF SPEAKERS



APPENDIX C:

LIST OF SPEAKERS THAT ADDRESSED THE LRC COMMITTEE ON BUSINESS DEVELOPMENT

Marion Bass, Chairman of Marion Bass Securities

Mike Carpenter, North Carolina Homebuilders Association

Monica Doss, Executive Director for the Council for Entrepreneurial
Development in Research Triangle Park

Andy Ellen, Farm Bureau

Billy Ray Hall, Rural Economic Development Center

Andrea Harris, North Carolina Institute of Minority Economic Development
Center

Betsy Justus, President of the North Carolina Electronics and Information
Technology Associations Government Affairs Committee

Linda Leake, President of "Change by Leake"

Perri Morgan, National Federation of Independent Businesses

Fran Preston, Retail Merchants Association

Jerry Williams, North Carolina Restaurant Association

Scott Zajac, Managing Director of Advantage Capital

